I

109TH CONGRESS
1ST SESSION

H. R. 3263

To reduce the growth of energy use in the United States, to limit the impact of growing energy use on the economy, environment, and national security of the United States through reductions in energy demand, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2005

Mr. WAMP (for himself, Mr. HALL, Mr. UDALL of Colorado, Mr. MARKEY, Mr. ALLEN, Mr. GONZALEZ, Mr. GORDON, Mr. CASTLE, Mr. EHLERS, Mr. BOEHLERT, and Mr. GILCHREST) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To reduce the growth of energy use in the United States, to limit the impact of growing energy use on the economy, environment, and national security of the United States through reductions in energy demand, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Energy Efficiency Cornerstone Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1)(A) energy prices, especially the price of petroleum and natural gas, have soared over the last few years due to demand exceeding supply; and

(B) as both supply and demand are relatively inflexible, even small reductions in United States demand for natural gas and oil can result in significant reductions in gas and oil prices;

(2) energy consumption in the United States is projected by the Energy Information Administration to increase by 35,000,000,000,000,000 Btus over the next 2 decades, which is equivalent to twice the energy consumed by all the cars currently on the roads;

(3)(A) by 2025, the Energy Information Administration projects that 80 percent of oil used in the United States will be imported; and

(B) overall energy imports are expected to increase by 75 percent in the United States;

(4) energy efficiency improvements since the 1970s have reduced current United States energy consumption by 40 percent, or 40,000,000,000,000,000 Btus, making energy efficiency the greatest energy resource of the United States;

(5) the United States has not nearly tapped the energy efficiency resource of the United States in that energy consumption could be reduced by 20 to 50 percent through cost-effective improvements in the homes, buildings, cars, industry, and utilities of the United States; and

(6) energy efficiency is generally the quickest, cheapest, and cleanest way—

(A) to bring energy supply and demand in balance; and

(B) to reduce the economic, environmental, and energy security impacts associated with energy use.

(b) PURPOSES.—The purposes of this Act are—

(1) to reduce the growth of energy use in the United States significantly, with cumulative energy savings through 2025 of 50,000,000,000,000,000 to 80,000,000,000,000,000 Btus; and

(2) to limit the impacts of growing energy use on the economy, environment, and national security of the United States through reductions in energy demand.

SEC. 3. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means the Secretary of Energy.

TITLE I—RESIDENTIAL AND COMMERCIAL BUILDINGS

Subtitle A—Appliance and Equipment Standards

SEC. 101. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in paragraph (29)—

(A) in subparagraph (D)—

(i) in clause (i), by striking ''C78.1–1978(R1984)'' and inserting ''C78.81–2003 (Data Sheet 7881–ANSI–1010–1)'';

(ii) in clause (ii), by striking ''C78.1–1978(R1984)'' and inserting ''C78.81–2003 (Data Sheet 7881–ANSI–3007–1)''; and

(iii) in clause (iii), by striking ''C78.1–1978(R1984)'' and inserting ''C78.81–2003 (Data Sheet 7881–ANSI–1019–1)''; and

(B) by adding at the end the following:

''(M) The term 'F34T12 lamp' (also known as a 'F40T12/ES lamp') means a nominal 34 watt tubular fluorescent lamp that is 48 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–1006–1).

''(N) The term 'F96T12/ES lamp' means a nominal 60 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–3006–1).

''(O) The term 'F96T12HO/ES lamp' means a nominal 95 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–1017–1).

''(P) The term 'replacement ballast' means a ballast that—

''(i) is designed for use to replace an existing ballast in a previously installed luminaire;

''(ii) is marked 'FOR REPLACEMENT USE ONLY';

''(iii) is shipped by the manufacturer in packages containing not more than 10 ballasts; and

''(iv) has output leads that when fully extended are a total length that is less than the length of the lamp with which the ballast is intended to be operated.'';

(2) in paragraph (30)(S)—

(A) by inserting ''(i)'' before ''The term''; and

(B) by adding at the end the following:

''(ii) The term 'medium base compact fluorescent lamp' does not include—

''(I) any lamp that is—

''(aa) specifically designed to be used for special purpose applications; and

''(bb) unlikely to be used in general purpose applications, such as the

applications described in subparagraph (D); or

''(II) any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule, because the lamp is—

''(aa) designed for special applications; and

''(bb) unlikely to be used in general purpose applications.''; and

(3) by adding at the end the following:

''(32) The term 'battery charger' means a device that charges batteries for consumer products, including battery chargers embedded in other consumer products.

''(33)(A) The term 'commercial prerinse spray valve' means a handheld device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

''(B) The Secretary may modify the definition of 'commercial prerinse spray valve' by rule—

''(i) to include products—

''(I) that are extensively used in conjunction with commercial dishwashing and ware washing equipment;

''(II) the application of standards to which would result in significant energy savings; and

''(III) the application of standards to which would meet the criteria specified in section 325(o)(4); and

''(ii) to exclude products—

''(I) that are used for special food service applications;

''(II) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment; and

''(III) the application of standards to which would not result in significant energy savings.

''(34) The term 'dehumidifier' means a self-contained, electrically operated, and mechanically encased assembly consisting of—

''(A) a refrigerated surface (evaporator) that condenses moisture from the atmosphere;

''(B) a refrigerating system, including an electric motor;

''(C) an air-circulating fan; and

''(D) means for collecting or disposing of the condensate.

''(35)(A) The term 'distribution transformer' means a transformer that—

''(i) has an input voltage of 34.5 kilovolts or less;

''(ii) has an output voltage of 600 volts or less; and

''(iii) is rated for operation at a frequency of 60 Hertz.

''(B) The term 'distribution transformer' does not include—

''(i) a transformer with multiple voltage taps, the highest of which equals at least 20 percent more than the lowest;

''(ii) a transformer that is designed to be used in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regu-

lating transformer, sealed and nonventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer; or

''(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because—

''(I) the transformer is designed for a special application;

''(II) the transformer is unlikely to be used in general purpose applications; and

''(III) the application of standards to the transformer would not result in significant energy savings.

''(36) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product.

''(37) The term 'illuminated exit sign' means a sign that—

''(A) is designed to be permanently fixed in place to identify an exit; and

"(B) consists of an electrically powered integral light source that—

"(i) illuminates the legend 'EXIT' and any directional indicators; and

"(ii) provides contrast between the legend, any directional indicators, and the background.

"(38) The term 'low-voltage dry-type distribution transformer' means a distribution transformer that—

"(A) has an input voltage of 600 volts or less;

"(B) is air-cooled; and

"(C) does not use oil as a coolant.

"(39) The term 'pedestrian module' means a light signal used to convey movement information to pedestrians.

"(40) The term 'refrigerated bottled or canned beverage vending machine' means a commercial refrigerator that cools bottled or canned beverages and dispenses the bottled or canned beverages on payment.

"(41) The term 'standby mode' means the lowest power consumption mode, as established on an individual product basis by the Secretary, that—

"(A) cannot be switched off or influenced by the user; and

"(B) may persist for an indefinite time when an appliance is—

"(i) connected to the main electricity supply; and

"(ii) used in accordance with the instructions of the manufacturer.

"(42) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward to give indirect illumination.

"(43) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication that—

"(A) consists of a light source, a lens, and all other parts necessary for operation; and

"(B) communicates movement messages to drivers through red, amber, and green colors.

"(44) The term 'transformer' means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.

''(45)(A) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space.

''(B) The term 'unit heater' does not include a warm air furnace.

''(46)(A) The term 'high intensity discharge lamp' means an electric-discharge lamp in which—

''(i) the light-producing arc is stabilized by bulb wall temperature; and

''(ii) the arc tube has a bulb wall loading in excess of 3 Watts/cm^2.

''(B) The term 'high intensity discharge lamp' includes mercury vapor, metal halide, and high-pressure sodium lamps described in subparagraph (A).

''(47)(A) The term 'mercury vapor lamp' means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury operating at a partial pressure in excess of 100,000 Pa (approximately 1 atm).

''(B) The term 'mercury vapor lamp' includes clear, phosphor-coated, and self-ballasted lamps described in subparagraph (A).

''(48) The term 'mercury vapor lamp ballast' means a device that is designed and marketed to

start and operate mercury vapor lamps by providing the necessary voltage and current.''.

(b) TEST PROCEDURES.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended—

(1) in subsection (b), by adding at the end the following:

''(9) Test procedures for illuminated exit signs shall be based on the test method used under version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

''(10)(A) Test procedures for distribution transformers and low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998).

''(B) The Secretary may review and revise the test procedures established under subparagraph (A).

''(C) For purposes of section 346(a), the test procedures established under subparagraph (A) shall be considered to be the testing requirements prescribed by the Secretary under section 346(a)(1) for distribution transformers for which the Secretary makes a determination that energy conservation standards would—

''(i) be technologically feasible and economically justified; and

''(ii) result in significant energy savings.

''(11) Test procedures for traffic signal modules and pedestrian modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

''(12)(A) Test procedures for medium base compact fluorescent lamps shall be based on the test methods for compact fluorescent lamps used under the August 9, 2001, version of the Energy Star program of the Environmental Protection Agency and the Department of Energy.

''(B) Except as provided in subparagraph (C), medium base compact fluorescent lamps shall meet all test requirements for regulated parameters of section 325(cc).

''(C) Notwithstanding subparagraph (B), if manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp lifetime, medium base compact fluorescent lamps may be marketed before completion of the testing of lamp life and lumen maintenance at 40 percent of rated life.

''(13) Test procedures for dehumidifiers shall be based on the test criteria used under the Energy Star Pro-

gram Requirements for Dehumidifiers developed by the Environmental Protection Agency, as in effect on the date of enactment of this paragraph unless revised by the Secretary pursuant to this section.

''(14) The test procedure for measuring flow rate for commercial prerinse spray valves shall be based on American Society for Testing and Materials Standard F2324, entitled 'Standard Test Method for Pre-Rinse Spray Valves.'

''(15) The test procedure for refrigerated bottled or canned beverage vending machines shall be based on American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 32.1–2004, entitled 'Methods of Testing for Rating Vending Machines for Bottled, Canned or Other Sealed Beverages'.''; and

(2) by adding at the end the following:

''(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—(1) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prescribe testing requirements for—

''(A) suspended ceiling fans; and

''(B) refrigerated bottled or canned beverage vending machines.

''(2) To the maximum extent practicable, the testing requirements prescribed under paragraph (1) shall be based on existing test procedures used in industry.''.

(c) STANDARD SETTING AUTHORITY.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(1) in subsection (f)(3), by adding at the end the following:

''(D) Notwithstanding any other provision of this Act, if the requirements of subsection (o) are met, the Secretary may consider and prescribe energy conservation standards or energy use standards for electricity used for purposes of circulating air through duct work.'';

(2) in subsection (g)—

(A) in paragraph (6)(B), by inserting ''and labeled'' after ''designed''; and

(B) by adding at the end the following:

''(8)(A) Each fluorescent lamp ballast (other than replacement ballasts or ballasts described in subparagraph (C))—

''(i)(I) manufactured on or after July 1, 2009;

''(II) sold by the manufacturer on or after October 1, 2009; or

''(III) incorporated into a luminaire by a luminaire manufacturer on or after July 1, 2010; and

''(ii) designed—

''(I) to operate at nominal input voltages of 120 or 277 volts;

''(II) to operate with an input current frequency of 60 Hertz; and

''(III) for use in connection with F34T12 lamps, F96T12/ES lamps, or F96T12HO/ES lamps;

shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor of not less than the following:

''(B) The standards described in subparagraph (A) shall apply to all ballasts covered by subparagraph (A)(ii) that are manufactured on or after July 1, 2010, or sold by the manufacturer on or after October 1, 2010.

''Application for operation for operation of ballast input voltage	Total nominal lampwatts	Ballast efficienty factor
One F34T12 lamp	120/277	34
Two F34T12 lamps	120/277	68
Two F96 T12/ES lamps	120/277	120
Two F96 T12HO/ES lamps	120/277	190

''(C) The standards described in subparagraphs (A) and (B) do not apply to—

''(i) a ballast that is designed for dimming to 50 percent or less of the maximum output of the ballast;

''(ii) a ballast that is designed for use with 2 F96T12HO lamps at ambient temperatures of 20°F or less and for use in an outdoor sign; or

''(iii) a ballast that has a power factor of less than 0.90 and is designed and labeled for use only in residential applications.'';

(3) in subsection (o), by adding at the end the following:

''(5)(A) Notwithstanding any other provision in this section, the Secretary may set 2 standards for space heating and air conditioning equipment by dividing the United States into 2 climate zones to achieve the maximum level of energy savings that are technically feasible and economically justified.

''(B) The climate zone boundaries described in subparagraph (A)—

''(i) shall follow State borders; and

''(ii) shall include only contiguous States.

''(C) In determining whether to set 2 standards as described in subparagraph (A), the Secretary shall consider all factors described in paragraphs (1) through (4).

''(D) If the Secretary sets 2 standards as described in subparagraph (A), it shall be illegal to

transport noncomplying products into a State for retail sale or installation in that State.''.

(4) by adding at the end the following:

''(u) BATTERY CHARGER AND EXTERNAL POWER SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1)(A) Not later than 18 months after the date of enactment of this subsection, the Secretary shall, after providing notice and an opportunity for comment, prescribe, by rule, definitions and test procedures for the power use of battery chargers and external power supplies.

''(B) In establishing the test procedures under subparagraph (A), the Secretary shall—

''(i) consider existing definitions and test procedures used for measuring energy consumption in standby mode and other modes; and

''(ii) assess the current and projected future market for battery chargers and external power supplies.

''(C) The assessment under subparagraph (B)(ii) shall include—

''(i) estimates of the significance of potential energy savings from technical improvements to battery chargers and external power supplies; and

''(ii) suggested product classes for energy conservation standards.

''(D) Not later than 18 months after the date of enactment of this subsection, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for battery chargers and external power supplies.

''(E)(i) Not later than 3 years after the date of enactment of this subsection, the Secretary shall issue a final rule that determines whether energy conservation standards shall be issued for battery chargers and external power supplies or classes of battery chargers and external power supplies.

''(ii) For each product class, any energy conservation standards issued under clause (i) shall be set at the lowest level of energy use that—

''(I) meets the criteria and procedures of subsections (o), (p), (q), (r), (s), and (t); and

''(II) would result in significant overall annual energy savings, considering standby mode and other operating modes.

''(2) In determining under section 323 whether test procedures and energy conservation standards under this section should be revised with respect to covered products that are major sources of standby mode energy consumption, the Secretary shall consider whether to incorporate standby mode into the test procedures and energy con-

servation standards, taking into account standby mode power consumption compared to overall product energy consumption.

''(3) The Secretary shall not propose an energy conservation standard under this section, unless the Secretary has issued applicable test procedures for each product under section 323.

''(4) Any energy conservation standard issued under this subsection shall be applicable to products manufactured or imported beginning on the date that is 3 years after the date of issuance.

''(5) The Secretary and the Administrator shall collaborate and develop programs (including programs under section 324A and other voluntary industry agreements or codes of conduct) that are designed to reduce standby mode energy use.

''(v) SUSPENDED CEILING FANS AND REFRIGERATED BEVERAGE VENDING MACHINES.—(1) Not later than 4 years after the date of enactment of this subsection, the Secretary shall prescribe, by rule, energy conservation standards for—

''(A) suspended ceiling fans; and

''(B) refrigerated bottled or canned beverage vending machines.

''(2) In establishing energy conservation standards under this subsection, the Secretary shall use the criteria and procedures prescribed under subsections (o) and (p).

''(3) Any energy conservation standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing the energy conservation standard.

''(w) ILLUMINATED EXIT SIGNS.—An illuminated exit sign manufactured on or after January 1, 2006, shall meet the version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency.

''(x) TORCHIERES.—A torchiere manufactured on or after January 1, 2006—

''(1) shall consume not more than 190 watts of power; and

''(2) shall not be capable of operating with lamps that total more than 190 watts.

''(y) LOW VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMERS.—The efficiency of a low voltage dry-type distribution transformer manufactured on or after January 1, 2007, shall be the Class I Efficiency Levels for distribution transformers specified in table 4–2 of the 'Guide for Determining Energy Efficiency for Distribution Trans-

formers' published by the National Electrical Manufacturers Association (NEMA TP–1–2002).

''(z) TRAFFIC SIGNAL MODULES AND PEDESTRIAN MODULES.—Any traffic signal module or pedestrian module manufactured on or after January 1, 2006, shall—

''(1) meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this subsection; and

''(2) be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

''(aa) UNIT HEATERS.—A unit heater manufactured on or after the date that is 3 years after the date of enactment of this subsection shall—

''(1) be equipped with an intermittent ignition device; and

''(2) have power venting or an automatic flue damper.

''(bb) MEDIUM BASE COMPACT FLUORESCENT LAMPS.—(1) A bare lamp and covered lamp (no reflector) medium base compact fluorescent lamp manufactured on or after January 1, 2006, shall meet the following requirements prescribed by the August 9, 2001, version of the

Energy Star Program Requirements for Compact Fluorescent Lamps, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy:

''(A) Minimum initial efficacy.

''(B) Lumen maintenance at 1000 hours.

''(C) Lumen maintenance at 40 percent of rated life.

''(D) Rapid cycle stress test.

''(E) Lamp life.

''(2) The Secretary may, by rule, establish requirements for color quality (CRI), power factor, operating frequency, and maximum allowable start time based on the requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps.

''(3) The Secretary may, by rule—

''(A) revise the requirements established under paragraph (2); or

''(B) establish other requirements, after considering energy savings, cost effectiveness, and consumer satisfaction.

''(cc) DEHUMIDIFIERS.—(1) Dehumidifiers manufactured on or after October 1, 2007, shall have an Energy Factor that meets or exceeds the following values:

"Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh):
25.00 or less	1.00
25.01 – 35.00	1.20
35.01 – 54.00	1.30
54.01 – 74.99	1.50
75.00 or more	2.25.

''(2)(A) Not later than October 1, 2009, the Secretary shall publish a final rule in accordance with subsections (o) and (p), to determine whether the energy conservation standards established under paragraph (1) should be amended.

''(B) The final rule published under subparagraph (A) shall—

''(i) contain any amendment by the Secretary; and

''(ii) provide that the amendment applies to products manufactured on or after October 1, 2012.

''(C) If the Secretary does not publish an amendment that takes effect by October 1, 2012, dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

"Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh):
25.00 or less	1.20
25.01 – 35.00	1.30
35.01 – 45.00	1.40
45.01 – 54.00	1.50
54.01 – 74.99	1.60
75.00 or more	2.5.

''(dd) COMMERCIAL PRERINSE SPRAY VALVES.—Commercial prerinse spray valves manufactured on or

after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

''(ee) MERCURY VAPOR LAMP BALLASTS.—Mercury vapor lamp ballasts shall not be manufactured or imported after January 1, 2008.

''(ff) APPLICATION DATE.—Section 327 applies—

''(1) to products for which energy conservation standards are to be established under subsection (l), (u), or (v) beginning on the date on which a final rule is issued by the Secretary, except that any State or local standard prescribed or enacted for the product before the date on which the final rule is issued shall not be preempted until the energy conservation standard established under subsection (l),(u), or (v) for the product takes effect; and

''(2) to products for which energy conservation standards are established under subsections (w) through (ee) on the date of enactment of those subsections, except that any State or local standard prescribed or enacted before the date of enactment of those subsections shall not be preempted until the energy conservation standards established under subsections (w) through (ee) take effect.''.

(d) GENERAL RULE OF PREEMPTION.—Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) is amended—

(1) in paragraph (5), by striking ''or'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(7)(A) is a regulation concerning standards for commercial prerinse spray valves adopted by the California Energy Commission before January 1, 2005; or

''(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations with changes in American Society for Testing and Materials Standard F2324;

''(8)(A) is a regulation concerning standards for pedestrian modules adopted by the California Energy Commission before January 1, 2005; or

''(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations to changes in the Institute for Transportation Engineers standards, entitled 'Performance Specification: Pedestrian Traffic Control Signal Indications'.''.

SEC. 102. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (G) as subparagraphs (H) through (K), respectively; and

(B) by inserting after subparagraph (C) the following:

''(D) Very large commercial package air conditioning and heating equipment.

''(E) Commercial refrigerators, freezers, and refrigerator-freezers.

''(F) Automatic commercial ice makers.

''(G) Commercial clothes washers.'';

(2) in paragraph (2)(B), by striking ''small and large commercial package air conditioning and heating equipment'' and inserting ''commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers'';

(3) by striking paragraphs (8) and (9) and inserting the following:

''(8)(A) The term 'commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

''(B) The term 'small commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

''(C) The term 'large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated—

''(i) at or above 135,000 Btu per hour; and

''(ii) below 240,000 Btu per hour (cooling capacity).

''(D) The term 'very large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated—

''(i) at or above 240,000 Btu per hour; and

"(ii) below 760,000 Btu per hour (cooling capacity).

"(9)(A) The term 'commercial refrigerator, freezer, and refrigerator-freezer' means refrigeration equipment that—

"(i) is not a consumer product (as defined in section 321);

"(ii) is not designed and marketed exclusively for medical, scientific, or research purposes;

"(iii) operates at a chilled, frozen, combination chilled and frozen, or variable temperature;

"(iv) displays or stores merchandise and other perishable materials horizontally, semivertically, or vertically;

"(v) has transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors;

"(vi) is designed for pull-down temperature applications or holding temperature applications; and

"(vii) is connected to a self-contained condensing unit or to a remote condensing unit.

''(B) The term 'holding temperature application' means a use of commercial refrigeration equipment other than a pull-down temperature application, except a blast chiller or freezer.

''(C) The term 'integrated average temperature' means the average temperature of all test package measurements taken during the test.

''(D) The term 'pull-down temperature application' means a commercial refrigerator with doors that, when fully loaded with 12 ounce beverage cans at 90 degrees F, can cool those beverages to an average stable temperature of 38 degrees F in 12 hours or less.

''(E) The term 'remote condensing unit' means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is remotely located from the refrigerated equipment and consists of 1 or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

''(F) The term 'self-contained condensing unit' means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment and consists of 1 or more refrig-

erant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.''; and

(4) by adding at the end the following:

''(19) The term 'automatic commercial ice maker' means a factory-made assembly (not necessarily shipped in 1 package) that—

''(A) consists of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and

''(B) may include means for storing ice, dispensing ice, or storing and dispensing ice.

''(20) The term 'commercial clothes washer' means a soft-mount front-loading or soft-mount top-loading clothes washer that—

''(A) has a clothes container compartment that—

''(i) for horizontal-axis clothes washers, is not more than 3.5 cubic feet ; and

''(ii) for vertical-axis clothes washers, is not more than 4.0 cubic feet; and

''(B) is designed for use in—

''(i) applications in which the occupants of more than 1 household will be using the clothes washer, such as multi-

family housing common areas and coin laundries; or

''(ii) other commercial applications.

''(21) The term 'harvest rate' means the amount of ice (at 32 degrees F) in pounds produced per 24 hours.''.

(b) STANDARDS FOR COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT.—Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended—

(1) in the subsection heading, by striking ''SMALL AND LARGE'' and inserting ''SMALL, LARGE, AND VERY LARGE'';

(2) in paragraph (1), by inserting ''but before January 1, 2010,'' after ''January 1, 1994,'';

(3) in paragraph (2), by inserting ''but before January 1, 2010,'' after ''January 1, 1995,''; and

(4) in paragraph (6)—

(A) in subparagraph (A)—

(i) by inserting ''(i)'' after ''(A)'';

(ii) by striking ''the date of enactment of the Energy Policy Act of 1992'' and inserting ''January 1, 2010'';

(iii) by inserting after ''large commercial package air conditioning and heating

equipment,'' the following: ''and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any''; and

(iv) by adding at the end the following:

''(ii) If ASHRAE/IES Standard 90.1 is not amended with respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and very large commercial package air conditioning and heating equipment during the 5-year period beginning on the effective date of a standard, the Secretary may initiate a rulemaking to determine whether a more stringent standard—

''(I) would result in significant additional conservation of energy; and

''(II) is technologically feasible and economically justified.''; and

(B) in subparagraph (C)(ii), by inserting ''and very large commercial package air conditioning and heating equipment'' after ''large commercial package air conditioning and heating equipment''; and

(5) by adding at the end the following:

''(7) Small commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

''(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

''(i) 11.2 for equipment with no heating or electric resistance heating; and

''(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

''(i) 11.0 for equipment with no heating or electric resistance heating; and

''(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

''(8) Large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

''(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

''(i) 11.0 for equipment with no heating or electric resistance heating; and

''(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

''(i) 10.6 for equipment with no heating or electric resistance heating; and

''(ii) 10.4 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

''(9) Very large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

''(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

''(i) 10.0 for equipment with no heating or electric resistance heating; and

''(ii) 9.8 for equipment with all other heating system types that are integrated into the

equipment (at a standard rating of 95 degrees F db).

"(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

"(i) 9.5 for equipment with no heating or electric resistance heating; and

"(ii) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).".

(c) STANDARDS FOR COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) is amended by adding at the end the following:

"(e) COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—(1) In this subsection:

''(A) The term 'AV' means the adjusted volume (ft^3) (defined as 1.63 x frozen temperature compartment volume (ft^3) + chilled temperature compartment volume (ft^3)) with compartment volumes measured in accordance with the Association of Home Appliance Manufacturers Standard HRF1–1979.

''(B) The term 'V' means the chilled or frozen compartment volume (ft^3) (as defined in the Association of Home Appliance Manufacturers Standard HRF1–1979).

''(C) Other terms have such meanings as may be established by the Secretary, based on industry-accepted definitions and practice.

''(2) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) that does not exceed the following:

''Refrigerators with solid doors	0.10 V + 2.04
Refrigerators with transparent doors	0.12 V + 3.34
Freezers with solid doors	0.40 V + 1.38
Freezers with transparent doors	0.75 V + 4.10
Refrigerators/freezers with solid doors the greater of	0.27 AV – 0.71 or 0.70.

''(3) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications and transparent doors manufactured on

or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) of not more than 0.126 V + 3.51.

''(4)(A) Not later than January 1, 2009, the Secretary shall issue, by rule, standard levels for ice-cream freezers, self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors, and remote condensing commercial refrigerators, freezers, and refrigerator-freezers, with the standard levels effective for equipment manufactured on or after January 1, 2012.

''(B) The Secretary may issue, by rule, standard levels for other types of commercial refrigerators, freezers, and refrigerator-freezers not covered by paragraph (2)(A) with the standard levels effective for equipment manufactured 3 or more years after the date on which the final rule is published.

''(5)(A) Not later than January 1, 2013, the Secretary shall issue a final rule to determine whether the standards established under this subsection should be amended.

''(B) Not later than 3 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that the standards should not be amended, the Secretary shall issue a final rule to determine whether the standards established under

this subsection or the amended standards, as applicable, should be amended.

''(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

''(i) 3 years after the date on which the final amended standard is published; or

''(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.''.

(d) STANDARDS FOR AUTOMATIC COMMERCIAL ICE MAKERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) (as amended by subsection (c)) is amended by adding at the end the following:

''(d) AUTOMATIC COMMERCIAL ICE MAKERS.—(1) Each automatic commercial ice maker that produces cube type ice with capacities between 50 and 2500 pounds per 24-hour period when tested according to the test standard established in section 343(a)(7) and is manufactured on or after January 1, 2010, shall meet the following standard levels:

''Equipment type	Type of cooling	Harvest rate (lbs ice/24 hours)	Maximum energy use (kWh/100 lbs ice)	Maximum condenser water use (gal/100 lbs ice)
Ice Making Head	Water	<500	7.80–0.0055H	200–0.022H
		> or = 500 and <1436	5.58–0.0011H	200–0.022H
		> or = 1436	4.0	200–0.022H
Ice making head	Air	<450	10.26–0.0086H	Not applicable
		> or = 450	6.89–0.0011H	Not applicable
Remote Condensing (but not remote compressor)	Air	<1000	8.85–0.0038H	Not applicable
		> or = 1000	5.10	Not applicable
Remote Condensing and Remote Compressor	Air	<934	8.85–0.0038H	Not applicable
		> or = 934	5.3	Not applicable

''(2)(A) The Secretary may issue, by rule, standard levels for types of automatic commercial ice makers that are not covered by paragraph (1).

''(B) The standards established under subparagraph (A) shall apply to products manufactured on or after the date that is—

''(i) 3 years after the date on which the rule is published under subparagraph (A); or

''(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.

''(3)(A) Not later than January 1, 2015, with respect to the standards established under paragraph (1), and, with respect to the standards established under paragraph (2), not later than 5 years after the date on which the

standards take effect, the Secretary shall issue a final rule to determine whether amending the applicable standards is technologically feasible and economically justified.

''(B) Not later than 5 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that amending the standards is not technologically feasible or economically justified, the Secretary shall issue a final rule to determine whether amending the standards established under paragraph (1) or the amended standards, as applicable, is technologically feasible or economically justified.

''(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

''(i) 3 years after the date on which the final amended standard is published; or

''(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final amended standard is published.

''(4) A final rule issued under paragraph (2) or (3) shall establish standards at the maximum level that is technically feasible and economically justified, as provided in subsections (o) and (p) of section 325.''.

(e) STANDARDS FOR COMMERCIAL CLOTHES WASHERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) (as amended by subsection (d)) is amended by adding at the end the following:

''(e) COMMERCIAL CLOTHES WASHERS.—(1) Each commercial clothes washer manufactured on or after January 1, 2007, shall have—

''(A) a Modified Energy Factor of at least 1.26; and

''(B) a Water Factor of not more than 9.5.

''(2)(A)(i) Not later than January 1, 2010, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

''(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.

''(B)(i) Not later than January 1, 2015, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

''(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manu-

factured 3 years after the date on which the final amended standard is published.''.

(f) TEST PROCEDURES.—Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended—

(1) in subsection (a)—

(A) in paragraph (4)—

(i) in subparagraph (A), by inserting ''very large commercial package air conditioning and heating equipment,'' after ''large commercial package air conditioning and heating equipment,''; and

(ii) in subparagraph (B), by inserting ''very large commercial package air conditioning and heating equipment,'' after ''large commercial package air conditioning and heating equipment,''; and

(B) by adding at the end the following:

''(6)(A)(i) In the case of commercial refrigerators, freezers, and refrigerator-freezers, the test procedures shall be—

''(I) the test procedures determined by the Secretary to be generally accepted industry testing procedures; or

''(II) rating procedures developed or recognized by the ASHRAE or by the American National Standards Institute.

''(ii) In the case of self-contained refrigerators, freezers, and refrigerator-freezers to which standards are applicable under paragraphs (2) and (3) of section 342(c), the initial test procedures shall be the ASHRAE 117 test procedure that is in effect on January 1, 2005.

''(B) In the case of commercial refrigerators, freezers, and refrigerators-freezers with doors covered by the standards adopted in February 2002, by the California Energy Commission, the rating temperatures shall be the integrated average temperature of 38 degrees F (plus or minus 2 degrees F) for refrigerator compartments and 0 degrees F (plus or minus 2 degrees F) for freezer compartments.

''(C) The Secretary shall issue a rule in accordance with paragraphs (2) and (3) to establish the appropriate rating temperatures for the other products for which standards will be established under subsection 342(c)(4).

''(D) In establishing the appropriate test temperatures under this subparagraph, the Secretary shall follow the procedures and meet the requirements under section 323(e).

''(E)(i) Not later than 180 days after the publication of the new ASHRAE 117 test procedure, if the ASHRAE 117 test procedure for commercial refrigerators, freezers, and refrigerator-freezers is amended, the Secretary shall, by rule, amend the test procedure for the product as necessary to ensure that the test procedure is consistent with the amended ASHRAE 117 test procedure, unless the Secretary makes a determination, by rule, and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

''(ii) If the Secretary determines that 180 days is an insufficient period during which to review and adopt the amended test procedure or rating procedure under clause (i), the Secretary shall publish a notice in the Federal Register stating the intent of the Secretary to wait not longer than 1 additional year before putting into effect an amended test procedure or rating procedure.

''(F)(i) If a test procedure other than the ASHRAE 117 test procedure is approved by the American National Standards Institute, the Secretary shall, by rule—

''(I) review the relative strengths and weaknesses of the new test procedure relative to the ASHRAE 117 test procedure; and

''(II) based on that review, adopt 1 new test procedure for use in the standards program.

''(ii) If a new test procedure is adopted under clause (i)—

''(I) section 323(e) shall apply; and

''(II) subparagraph (B) shall apply to the adopted test procedure.

''(7)(A) In the case of automatic commercial ice makers, the test procedures shall be the test procedures specified in Air-Conditioning and Refrigeration Institute Standard 810–2003, as in effect on January 1, 2005.

''(B)(i) If Air-Conditioning and Refrigeration Institute Standard 810–2003 is amended, the Secretary shall amend the test procedures established in subparagraph (A) as necessary to be consistent with the amended Air-Conditioning and Refrigeration Institute Standard, unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

''(ii) If the Secretary issues a rule under clause (i) containing a determination described in clause (ii), the rule may establish an amended test procedure for the product that meets the requirements of paragraphs (2) and (3).

''(C) The Secretary shall comply with section 323(e) in establishing any amended test procedure under this paragraph.

''(8) With respect to commercial clothes washers, the test procedures shall be the same as the test procedures established by the Secretary for residential clothes washers under section 325(g).''; and

(2) in subsection (d)(1), by inserting ''very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers,'' after ''large commercial package air conditioning and heating equipment,''.

(g) LABELING.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended by inserting ''very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers,'' after ''large commercial package air conditioning and heating equipment,'' each place it appears.

(h) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended—

(1) in subsection (a)—

(A) in paragraph (7), by striking ''and'' at the end;

(B) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(9) in the case of commercial clothes washers, section 327(b)(1) shall be applied as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 2005.'';

(2) in the first sentence of subsection (b)(1), by striking ''part B'' and inserting ''part A''; and

(3) by adding at the end the following:

''(d)(1) Except as provided in paragraphs (2) and (3), section 327 shall apply with respect to very large commercial package air conditioning and heating equipment to the same extent and in the same manner as section 327 applies under part A on the date of enactment of this subsection.

''(2) Any State or local standard issued before the date of enactment of this subsection shall not be preempted until the standards established under section 342(a)(9) take effect on January 1, 2010.

''(e)(1)(A) Subsections (a), (b), and (d) of section 326, subsections (m) through (s) of section 325, and sec-

tions 328 through 336 shall apply with respect to commercial refrigerators, freezers, and refrigerator-freezers to the same extent and in the same manner as those provisions apply under part A.

''(B) In applying those provisions to commercial refrigerators, freezers, and refrigerator-freezers, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

''(2)(A) Section 327 shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under paragraphs (2) and (3) of section 342(c) to the same extent and in the same manner as those provisions apply under part A on the date of enactment of this subsection, except that any State or local standard issued before the date of enactment of this subsection shall not be preempted until the standards established under paragraphs (2) and (3) of section 342(c) take effect.

''(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

''(3)(A) Section 327 shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under section 342(c)(4) to the same extent and in the same manner as the provisions apply under part A on the date of publication of the final

rule by the Secretary, except that any State or local standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards take effect.

''(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

''(4)(A) If the Secretary does not issue a final rule for a specific type of commercial refrigerator, freezer, or refrigerator-freezer within the time frame specified in section 342(c)(5), subsections (b) and (c) of section 327 shall not apply to that specific type of refrigerator, freezer, or refrigerator-freezer for the period beginning on the date that is 2 years after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of refrigerator, freezer, or refrigerator-freezer.

''(B) Any State or local standard issued before the date of publication of the final rule shall not be preempted until the final rule takes effect.

''(5)(A) In the case of any commercial refrigerator, freezer, or refrigerator-freezer to which standards are applicable under paragraphs (2) and (3) of section 342(c), the Secretary shall require manufacturers to certify, through an independent, nationally recognized testing or

certification program, that the commercial refrigerator, freezer, or refrigerator-freezer meets the applicable standard.

''(B) The Secretary shall, to the maximum extent practicable, encourage the establishment of at least 2 independent testing and certification programs.

''(C) As part of certification, information on equipment energy use and interior volume shall be made available to the Secretary.

''(e)(1)(A)(i) Except as provided in clause (ii), section 327 shall apply to automatic commercial ice makers for which standards have been established under section 342(d)(1) to the same extent and in the same manner as the section applies under part A on the date of enactment of this subsection.

''(ii) Any State standard issued before the date of enactment of this subsection shall not be preempted until the standards established under section 342(d)(1) take effect.

''(B) In applying section 327 to the equipment under subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

''(2)(A)(i) Except as provided in clause (ii), section 327 shall apply to automatic commercial ice makers for which standards have been established under section

342(d)(2) to the same extent and in the same manner as the section applies under part A on the date of publication of the final rule by the Secretary.

''(ii) Any State standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards established under section 342(d)(2) take effect.

''(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

''(3)(A) If the Secretary does not issue a final rule for a specific type of automatic commercial ice maker within the time frame specified in subsection 342(d), subsections (b) and (c) of section 327 shall no longer apply to the specific type of automatic commercial ice maker for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of automatic commercial ice maker.

''(B) Any State standard issued before the publication of the final rule shall not be preempted until the standards established in the final rule take effect.

''(4)(A) The Secretary shall monitor whether manufacturers are reducing harvest rates below tested values

for the purpose of bringing non-complying equipment into compliance.

''(B) If the Secretary finds that there has been a substantial amount of manipulation with respect to harvest rates under subparagraph (A), the Secretary shall take steps to minimize the manipulation, such as requiring harvest rates to be within 5 percent of tested values.

''(g)(1)(A) If the Secretary does not issue a final rule for commercial clothes washers within the timeframe specified in section 342(e)(2), subsections (b) and (c) of section 327 shall not apply to commercial clothes washers for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering commercial clothes washers.

''(B) Any State or local standard issued before the date on which the Secretary publishes a final rule shall not be preempted until the standards established under section 342(e)(2) take effect.

''(2) The Secretary shall undertake an educational program to inform owners of laundromats, multifamily housing, and other sites where commercial clothes washers are located about the new standard, including impacts on washer purchase costs and options for recovering those costs through coin collection.''.

SEC. 103. ENERGY LABELING.

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

"(F)(i) Not later than 90 days after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider—

"(I) the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency; and

"(II) changes to the labeling rules (including categorical labeling) that would improve the effectiveness of consumer product labels.

"(ii) Not later than 2 years after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).".

(b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by adding at the end the following:

''(5)(A) For covered products described in subsections (u) through (ee) of section 325, after a test procedure has been prescribed under section 323, the Secretary or the Commission, as appropriate, may prescribe, by rule, under this section labeling requirements for the products.

''(B) In the case of products to which TP–1 standards under section 325(y) apply, labeling requirements shall be based on the 'Standard for the Labeling of Distribution Transformer Efficiency' prescribed by the National Electrical Manufacturers Association (NEMA TP–3) as in effect on the date of enactment of this paragraph.

''(C) In the case of dehumidifiers covered under section 325(dd), the Commission shall not require an 'Energy Guide' label.''.

SEC. 104. EQUIPMENT STANDARDS AND ANALYSIS PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) explains the reasons for the failure of the Secretary to complete, by any applicable deadlines, required rulemakings under the equipment stand-

ards and analysis program for issuance of appliance and equipment standards; and

(2) provides plans and timetables for completion of each of the rulemakings described in paragraph (1) that has not been completed as of the date of enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the equipment standards and analysis program of the Department of Energy—

(1) $20,000,000 for fiscal year 2006;

(2) $25,000,000 for fiscal year 2007;

(3) $30,000,000 for fiscal year 2008;

(4) $35,000,000 for fiscal year 2009; and

(5) $40,000,000 for fiscal year 2010.

Subtitle B—Building Energy Codes

SEC. 111. STATE BUILDING ENERGY EFFICIENCY CODES INCENTIVES.

Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is amended in subsection (e)—

(1) in paragraph (1) by inserting at the end of the first sentence ", including increasing and verifying compliance with such codes"; and

(2) by striking paragraph (2) and inserting the following:

''(2) Additional funding shall be provided under this subsection for implementations of a plan to achieve and document at least 90 percent rate of compliance with residential and commercial building energy efficiency codes, based on energy performance—

''(A) to a State that has adopted and is implementing, on a statewide basis—

''(i) a residential building energy efficiency code that meets or exceeds the requirements of the 2004 International Energy Conservation Code, or any succeeding version of this code that has received an affirmative determination from the Secretary under subsection (a)(5)(A) of this section; and

''(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1–2004, or any succeeding version of this standard that has received an affirmative determination from the Secretary under subsection (b)(2)(A) of this section; or

''(B) in States in which there is no statewide energy code either for residential buildings or for commercial buildings, to a local government that has adopted and is implementing residential and commercial building energy efficiency codes as described in subparagraph (A).

''(3) Of the amounts made available under this part, the Secretary may use $500,000 for each fiscal year to train State and local officials.

''(4)(A) There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2006 through 2010, and such sums as may be necessary for each fiscal year after 2010.

''(B) Funding to States under paragraph (2) in each fiscal year shall not exceed half of the excess of funding under this subsection over $5,000,000.''.

SEC. 112. ENERGY CODE APPLICABLE TO MANUFACTURED HOUSING.

Section 604 of the National Manufacturing Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403) is amended in subsection (g) by striking paragraphs (2) and (3) and inserting the following:

''(2) The energy conservation standards established under this subsection shall be based on the most recent version of the International Energy

Conservation Code (including supplements) except where the Secretary finds that such code is not cost-effective, or a more stringent standard would be more cost-effective, based on total life-cycle construction and operating costs.

''(3) The energy conservation standards established under this subsection may—

''(A) take into consideration the design and factory construction techniques of manufactured homes;

''(B) be based on the climate zones established by the Department of Housing and Urban Development rather than those under the International Energy Conservation Code; and

''(C) provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards.''.

SEC. 113. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''1 year after the date of the enactment of the Energy Policy Act

of 1992'' and inserting ''September 30, 2006'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development.''; and

(B) in paragraph (2), by striking ''Council of American'' and all that follows through ''90.1–1989'' and inserting ''2004 International Energy Conservation Code'';

(2) in subsection (b)—

(A) by striking ''within 1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ''by September 30, 2006''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2004 International Energy Conservation Code''; and

(3) in subsection (c)—

(A) in the heading, by striking ''**MODEL ENERGY CODE**'' and inserting ''and the **INTERNATIONAL ENERGY CONSERVATION CODE**'' after ; and

(B) by striking ''CABO'' and alll that follows through ''1989'' and inserting ''the 2004 International Energy Conservation Code''.

(4) by adding at the end the following:

''(d) If the Secretaries have not, within 1 year after the requirements of the 2004 International Energy Conservation Code are revised, amended the standards or made a determination under subsection (c) of this section, and if the Secretary of Energy has made a determination under section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) that the revised code would improve energy efficiency, all new construction of housing specified in subsection (a) shall meet the requirements of the revised International Energy Conservation Code.''.

Subtitle C—Energy Star

SEC. 121. ENERGY STAR PROGRAM.

(a) IN GENERAL.—The Energy Policy and Conservation Act is amended by inserting after section 324 (42 U.S.C. 6294) the following:

''ENERGY STAR PROGRAM

''SEC. 324A. (a) IN GENERAL.—There is established within the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of, or other forms of communication about, products and buildings that meet the highest energy efficiency standards.

''(b) DIVISION OF RESPONSIBILITIES.—Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency in accordance with the terms of applicable agreements between those agencies.

''(c) DUTIES.—The Administrator and the Secretary shall—

''(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for—

''(A) achieving energy efficiency; and

''(B) reducing pollution;

''(2) work to enhance public awareness of the Energy Star label, including by providing special outreach to small businesses;

''(3) preserve the integrity of the Energy Star label by—

''(A) regularly updating Energy Star criteria; and

''(B) ensuring, in general, that—

''(i) not more than 25 percent of available models in a product class receive the Energy Star designation; and

''(ii) Energy Star designated products and buildings are at least 10 percent more efficient than—

''(I) appliance standards in effect on the date of enactment of this section; and

''(II) the most recent model energy code;

''(4) solicit comments from interested parties prior to establishing or revising an Energy Star product category, specification, or criterion (or prior to effective dates for any such product category, specification, or criterion);

''(5) on adoption of a new or revised product category, specification, or criterion, provide reasonable notice to interested parties of any changes (including effective dates) in product categories, specifications, or criteria, along with—

''(A) an explanation of the changes; and

''(B) as appropriate, responses to comments submitted by interested parties; and

''(6) provide appropriate lead time (which shall be 270 days, unless the Agency or Department specifies otherwise) prior to the applicable effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $70,000,000 for fiscal year 2006;

''(2) $90,000,000 for fiscal year 2007;

''(3) $110,000,000 for fiscal year 2008;

''(4) $130,000,000 for fiscal year 2009; and

''(5) $150,000,000 for fiscal year 2010.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by inserting after the item relating to section 324 the following:

''324A. Energy Star program.''.

Subtitle D—Federal Buildings

SEC. 131. FEDERAL BUILDING PERFORMANCE STANDARDS.

Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(1) in paragraph (2)(A)—

(A) by striking ''CABO Model Energy Code, 1992'' and inserting ''the 2004 International Energy Conservation Code''; and

(B) by striking ''90.1–1989'' and inserting ''90.1–2004''; and

(2) by adding at the end the following:

''(3)(A)(i) Unless demonstrated not to be life-cycle cost-effective, for each new and renovated Federal building—

''(I) such building be designed, constructed, commissioned, and operated so as to achieve energy consumption levels at least 30 percent below those of the version current as of the date of enactment of this paragraph of the ASHRAE Standard or the International Energy Conservation Code, as appropriate; and

''(II) sustainable design principles are applied to the siting, design, construction, operation, and maintenance of all new and replacement buildings; and

''(ii) where water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent they are life-cycle cost effective.

''(B) Not later than 1 year after the date of approval of each subsequent revision of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, the Secretary of Energy shall determine (based on the cost-effectiveness of the requirements under the amendments) whether the revised standards established under this paragraph should be updated to reflect the amendments.

''(C) In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

''(i) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and

''(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph.

''(4) All housing constructed under the military housing privatization initiative of the Department of Defense shall, where such designations and products are available—

''(A) be Energy Star qualified;

''(B) be equipped with Energy Star appliances and FEMP designated appliances; and

''(C) include Energy Star lighting.''.

TITLE II—TRANSPORTATION

SEC. 201. ALTERNATIVE COMPLIANCE WITH FLEET RULES.

(a) USE OF ALTERNATIVE FUELS BY DUAL-FUELED VEHICLES.—Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to read as follows:

''(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of that requirement for vehicles operated by the agency in a particular geographic area in which—

''(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

''(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably

more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

''(ii) The Secretary shall monitor compliance with this subparagraph by all agency fleets and shall submit annually to Congress a report that—

''(I) describes the extent to which the requirements of this subparagraph are being achieved; and

''(II) includes information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.''.

(b) ALTERNATIVE COMPLIANCE AND FLEXIBILITY.—

(1) ALTERNATIVE COMPLIANCE.—Title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.) is amended—

(A) by redesignating section 514 as section 515; and

(B) by inserting after section 513 the following:

''SEC. 514. ALTERNATIVE COMPLIANCE.

''(a) APPLICATION FOR WAIVER.—Any head of a Federal agency described in section 303(b)(3), any covered person subject to section 501, and any State subject to section 507(o) may petition the Secretary for a waiver

of the applicable requirements of section 303, 501, or 507(o).

''(b) GRANT OF WAIVER.—The Secretary may grant a waiver of the requirements of section 303, 501, or 507(o) upon a showing that the fleet owned, operated, leased, or otherwise controlled by the Federal agency, State, or covered person—

''(1) will achieve a reduction in its annual consumption of petroleum fuels equal to the reduction in consumption of petroleum that would result from 100 percent compliance with fuel use requirements in section 501 or 303, as appropriate, or, for entities covered under section 507(o), a reduction equal to the covered State entity's consumption of alternative fuels if all its alternative fuel vehicles given credit under section 508 were to use alternative fuel 100 percent of the time; and

''(2) is in compliance with all applicable vehicle emission standards established by the Administrator under the Clean Air Act (42 U.S.C. 7401 et seq.).

''(c) REVOCATION OF WAIVER.—The Secretary shall revoke any waiver granted under this section if the Federal agency, State, or covered person fails to comply with subsection (b).''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by striking the item relating to section 514 and inserting the following:

''514. Alternative compliance.
''515. Authorization of appropriations.''.

(c) CREDITS.—Section 508(a) of the Energy Policy Act of 1992 (42 U.S.C. 13258(a)) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) The Secretary''; and

(2) by adding at the end the following:

''(2) Not later than January 31, 2007, the Secretary shall—

''(A) allocate credit in an amount to be determined by the Secretary for—

''(i) acquisition of—

''(I) a light-duty hybrid electric vehicle;

''(II) a plug-in hybrid electric vehicle;

''(III) a fuel cell electric vehicle;

''(IV) a medium- or heavy-duty hybrid electric vehicle;

''(V) a neighborhood electric vehicle; or

''(VI) a medium- or heavy-duty dedicated vehicle; and

''(ii) investment in qualified alternative fuel infrastructure or nonroad equipment, as determined by the Secretary; and

''(B) allocate more than 1, but not to exceed 5, credits for investment in an emerging technology relating to any vehicle described in subparagraph (A) to encourage—

''(i) a reduction in petroleum demand;

''(ii) technological advancement; and

''(iii) environmental safety.''.

(d) FEDERAL FLEET.—Section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

''(f) CREDIT.—The Secretary shall allocate to a Federal fleet credits toward meeting the requirements of subsection (b) of this section under the same allocation as determined under subsection (a)(2)of section 508.''.

SEC. 202. STANDARDS FOR EXECUTIVE AGENCY AUTOMOBILES.

Section 32917 of title 49, United States Code, is amended to read as follows:

"§ 32917. Standards for Executive agency automobiles

''(a) DEFINITIONS.—In this section:

''(1) The term 'automobile' does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.

''(2) The term 'executive agency' has the meaning given that term in section 105 of title 5.

''(3) The term 'new automobile', with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 2004.''.

''(b) BASELINE AVERAGE FUEL ECONOMY.—

''(1) IN GENERAL.—In accordance with guidance issued under subsection (d), the head of each executive agency shall calculate, for all automobiles in the agency's fleet of automobiles that were leased or bought as a new vehicle in fiscal year 2004, the average fuel economy for the automobiles.

''(2) BASELINE.—In this section, the average fuel economy as calculated in paragraph (1) shall be

the baseline average fuel economy for the agency's fleet of automobiles.

''(c) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of automobiles for that agency so that not later than September 30, 2008, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (b) for that fleet.

''(d) CALCULATION OF AVERAGE FUEL ECONOMY.—The Secretary of Transportation shall issue guidance to carry out this section, including guidance for the calculation of average fuel economy.''.

TITLE III—INDUSTRY

SEC. 301. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) DEFINITIONS.—In this section:

(1) ENERGY INTENSITY.—The term ''energy intensity'' means the primary energy consumed for each unit of physical output in an industrial process.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy, acting in cooperation with the Administrator of the Environmental Protection Agency.

(b) VOLUNTARY AGREEMENTS.—The Secretary shall enter into voluntary agreements with 1 or more entities in industrial sectors that consume significant quantities of primary energy for each unit of physical output to reduce the energy intensity of the production activities of the entities.

(c) GOAL.—Voluntary agreements under this section shall have as a goal the reduction of energy intensity by not less than 2.5 percent each year during the period of calendar years 2007 through 2016.

(d) RECOGNITION.—The Secretary, in cooperation with other appropriate Federal agencies, shall develop mechanisms to recognize and publicize the achievements of participants in voluntary agreements under this section.

(e) TECHNICAL ASSISTANCE.—An entity that enters into an agreement under this section and continues to make a good faith effort to achieve the energy efficiency goals specified in the agreement shall be eligible to receive from the Secretary a grant or technical assistance, as appropriate, to assist in the achievement of those goals.

(f) REPORT.—Not later than each of June 30, 2012, and June 30, 2016, the Secretary shall submit to Congress a report that—

(1) evaluates the success of the voluntary agreements under this section;

(2) provides independent verification of any energy savings achieved as a result of the voluntary agreements below a no-commitment baseline for each participating firm; and

(3) identifies incentives and other measures needed to assist industries in achieving energy intensity reductions.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2006 through 2010, and such sums as may be necessary for each fiscal year after 2010.

TITLE IV—ELECTRICITY AND NATURAL GAS UTILITIES AND SUPPLIERS

SEC. 401. ENERGY EFFICIENT ELECTRIC AND NATURAL GAS UTILITIES STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the National Association of Regulatory Utility Commissioners and the National Association of State Energy Officials, shall conduct a study of State and regional policies that promote cost-effective programs to reduce energy consumption (including energy efficiency programs) that are carried out by—

(1) utilities that are subject to State regulation; and

(2) nonregulated utilities.

(b) CONSIDERATION.—In conducting the study under subsection (a), the Secretary shall take into consideration—

(1) performance standards for achieving energy use and demand reduction targets;

(2) funding sources, including rate surcharges;

(3) infrastructure planning approaches (including energy efficiency programs) and infrastructure improvements;

(4) the costs and benefits of consumer education programs conducted by State and local governments and local utilities to increase consumer awareness of energy efficiency technologies and measures; and

(5) methods of—

(A) removing disincentives for utilities to implement energy efficiency programs;

(B) encouraging utilities to undertake voluntary energy efficiency programs; and

(C) ensuring appropriate returns on energy efficiency programs.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes—

(1) the findings of the study; and

(2) any recommendations of the Secretary, including recommendations on model policies to promote energy efficiency programs.

SEC. 402. ENERGY EFFICIENCY PILOT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a pilot program under which the Secretary provides financial assistance to at least 3, but not more than 7, States to carry out pilot projects in the States for—

(1) planning and adopting statewide programs that encourage, for each year in which the pilot project is carried out—

(A) energy efficiency; and

(B) reduction of consumption of electricity or natural gas in the State by at least 0.75 percent, as compared to a baseline determined by the Secretary for the period preceding the implementation of the program; or

(2) for any State that has adopted a statewide program as of the date of enactment of this Act, activities that reduce energy consumption in the State by expanding and improving the program.

(b) VERIFICATION.—A State that receives financial assistance under subsection (a)(1) shall submit to the Secretary independent verification of any energy savings achieved through the statewide program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 403. ENERGY EFFICIENCY RESOURCE PROGRAMS.

(a) ELECTRIC UTILITY PROGRAMS.—Section 111 of the Public Utilities Regulatory Policy Act of 1978 (16 U.S.C. 2621) is amended by adding at the end the following:

''(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

''(1) DEFINITIONS.—In this subsection:

''(A) DEMAND BASELINE.—The term 'demand baseline' means the baseline determined by the Secretary for an appropriate period preceding the implementation of an energy efficiency resource program.

''(B) ENERGY EFFICIENCY RESOURCE PROGRAMS.—The term 'energy efficiency resource program' means an energy efficiency or other demand reduction program that is designed to reduce annual electricity consumption or peak

demand of consumers served by an electric utility by a percentage of the demand baseline of the utility that is equal to not less than 0.75 percent of the number of years during which the program is in effect.

''(2) PUBLIC HEARINGS; DETERMINATIONS.—

''(A) As soon as practicable after the date of enactment of this subsection, but not later than 3 years after that date, each State regulatory authority (with respect to each electric utility over which the State has ratemaking authority) and each nonregulated electric utility shall, after notice, conduct a public hearing on the benefits and feasibility of implementing an energy efficiency resource program.

''(B) A State regulatory authority or nonregulated utility shall implement an energy efficiency resource program if, on the basis of a hearing under subparagraph (A), the State regulatory authority or nonregulated utility determines that the program would—

''(i) benefit end-use customers;

''(ii) be cost-effective based on total resource cost;

''(iii) serve the public welfare; and

''(iv) be feasible to implement.

''(3) IMPLEMENTATION.—

''(A) STATE REGULATORY AUTHORITIES.—If a State regulatory authority makes a determination under paragraph (2)(B), the State regulatory authority shall—

''(i) require each electric utility over which the State has ratemaking authority to implement an energy efficiency resource program; and

''(ii) allow such a utility to recover any expenditures incurred by the utility in implementing the energy efficiency resource program.

''(B) NONREGULATED ELECTRIC UTILITIES.—If a nonregulated electric utility makes a determination under paragraph (2)(B), the utility shall implement an energy efficiency resource program.

''(4) UPDATING REGULATIONS.—A State regulatory authority or nonregulated utility may update periodically a determination under paragraph (2)(B) to determine whether an energy efficiency resource program should be—

''(A) continued;,

''(B) modified; or

''(C) terminated.

''(5) EXCEPTION.—Paragraph (2) shall not apply to a State regulatory authority (or any nonregulated electric utility operating in the State) that demonstrates to the Secretary that an energy efficiency resource program is in effect in the State.''.

(b) GAS UTILITIES.—Section 303 of the Public Utilities Regulatory Policy Act of 1978 (15 U.S.C. 3203) is amended by adding at the end the following:

''(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

''(1) DEFINITIONS.—In this subsection:

''(A) DEMAND BASELINE.—The term 'demand baseline' means the baseline determined by the Secretary for an appropriate period preceding the implementation of an energy efficiency resource program.

''(B) ENERGY EFFICIENCY RESOURCE PROGRAMS.—The term 'energy efficiency resource program' means an energy efficiency or other demand reduction program that is designed to reduce annual gas consumption or peak demand of consumers served by a gas utility by a percentage of the demand baseline of the utility that is equal to not less than 0.75 percent of

the number of years during which the program is in effect.

''(2) PUBLIC HEARINGS; DETERMINATIONS.—

''(A) As soon as practicable after the date of enactment of this subsection, but not later than 3 years after that date, each State regulatory authority (with respect to each gas utility over which the State has ratemaking authority) and each nonregulated gas utility shall, after notice, conduct a public hearing on the benefits and feasibility of implementing an energy efficiency resource program.

''(B) A State regulatory authority or nonregulated utility shall implement an energy efficiency resource program if, on the basis of a hearing under subparagraph (A), the State regulatory authority or nonregulated utility determines that the program would—

''(i) benefit end-use customers;

''(ii) be cost-effective based on total resource cost;

''(iii) serve the public welfare; and

''(iv) be feasible to implement.

''(3) IMPLEMENTATION.—

"(A) STATE REGULATORY AUTHORITIES.—If a State regulatory authority makes a determination under paragraph (2)(B), the State regulatory authority shall—

"(i) require each gas utility over which the State has ratemaking authority to implement an energy efficiency resource program; and

"(ii) allow such a utility to recover any expenditures incurred by the utility in implementing the energy efficiency resource program.

"(B) NONREGULATED GAS UTILITIES.—If a nonregulated gas utility makes a determination under paragraph (2)(B), the utility shall implement an energy efficiency resource program.

"(4) UPDATING REGULATIONS.—A State regulatory authority or nonregulated utility may update periodically a determination under paragraph (2)(B) to determine whether an energy efficiency resource program should be—

"(A) continued;

"(B) modified; or

"(C) terminated.

''(5) EXCEPTION.—Paragraph (2) shall not apply to a State regulatory authority (or any non-regulated gas utility operating in the State) that demonstrates to the Secretary that an energy efficiency resource program is in effect in the State.''.

TITLE V—TAX INCENTIVES

SEC. 500. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Buildings and Equipment Incentives

SEC. 501. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45J. NEW ENERGY EFFICIENT HOME CREDIT.

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor with respect to a qualified new energy efficient home, the credit determined

under this section for the taxable year with respect to such home is an amount equal to the aggregate adjusted bases of all energy efficient property installed in such home during construction of such home.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed by this section with respect to a dwelling unit shall not exceed—

''(i) in the case of a dwelling unit described in clause (i) or (iii) of subsection (c)(3)(C), $1,000, and

''(ii) in the case of a dwelling unit described in clause (ii) or (iv) of subsection (c)(3)(C), $2,000.

''(B) PRIOR CREDIT AMOUNTS ON SAME DWELLING UNIT TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a dwelling unit in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to such dwelling unit shall be reduced by the sum of the credits allowed under subsection (a) with respect to the dwelling unit for all prior taxable years.

''(2) COORDINATION WITH CERTAIN CREDITS.—For purposes of this section—

''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)) or to the energy percentage of energy property (as determined under section 48(a)), and

''(B) expenditures taken into account under section 47 or 48(a) shall not be taken into account under this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means—

''(A) the person who constructed the qualified new energy efficient home, or

''(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufactured home producer of such home.

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualified new energy efficient home, such term means the person designated as such by the owner of such home.

''(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment or system, which can, individually or in combination with other components, result in a dwelling unit meeting the requirements of this section.

''(3) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term 'qualified new energy efficient home' means a dwelling unit—

''(A) located in the United States,

''(B) the construction of which is substantially completed after the date of the enactment of this section, and

''(C) which is—

''(i) certified to have a level of annual heating and cooling energy consumption which is at least 30 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and

for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction, and to have building envelope component improvements account for at least ⅓ of such 30 percent,

''(ii) certified to have a level of annual heating and cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least ⅕ of such 50 percent,

''(iii) a manufactured home which meets the requirements of clause (i) and which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations), or

''(iv) a manufactured home which meets the requirements of clause (ii) and which conforms to Federal Manufactured Home Construction and Safety Standards

(section 3280 of title 24, Code of Federal Regulations).

''(4) CONSTRUCTION.—The term 'construction' includes substantial reconstruction and rehabilitation.

''(5) ACQUIRE.—The term 'acquire' includes purchase and, in the case of reconstruction and rehabilitation, such term includes a binding written contract for such reconstruction or rehabilitation.

''(6) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) any sealant or insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit when installed in or on such dwelling unit,

''(B) exterior windows (including skylights),

''(C) exterior doors, and

''(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which—

''(i) are specifically and primarily designed to reduce the heat gain of such dwelling unit, and

''(ii) meet the Energy Star program requirements.

''(d) CERTIFICATION.—

''(1) METHOD OF CERTIFICATION.—A certification described in subsection (c)(3)(C) shall be determined in accordance with guidance prescribed by the Secretary, after consultation with the Secretary of Energy. Such guidance shall specify procedures and methods for calculating energy and cost savings.

''(2) FORM.—A certification described in subsection (c)(3)(C) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

''(f) SPECIAL RULE WITH RESPECT TO BUILDINGS WITH ENERGY EFFICIENT PROPERTY.—In any case in which a deduction under section 200 or a credit under sec-

tion 25C has been allowed with respect to property in connection with a dwelling unit, the level of annual heating and cooling energy consumption of the comparable dwelling unit referred to in clauses (i) and (ii) of subsection (c)(3)(C) shall be determined assuming such comparable dwelling unit contains the property for which such deduction or credit has been allowed.

''(g) APPLICATION OF SECTION.—

''(1) 50 PERCENT HOMES.—In the case of any dwelling unit described in clause (ii) or (iv) of subsection (c)(3)(C), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section, and ending on December 31, 2009.

''(2) 30 PERCENT HOMES.—In the case of any dwelling unit described in clause (i) or (iii) of subsection (c)(3)(C), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section, and ending on December 31, 2007.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph

(19) and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the new energy efficient home credit determined under section 45J(a).".

(c) BASIS ADJUSTMENT.—Subsection (a) of section 1016, as amended by section 101, is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 45J(e), in the case of amounts with respect to which a credit has been allowed under section 45J.".

(d) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits) is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by adding after paragraph (12) the following new paragraph:

"(13) the new energy efficient home credit determined under section 45J(a).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"45J. New energy efficient home credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 502. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to so much of the credit amount specified in paragraph (2) which does not exceed the expenditures made by the taxpayer in connection with the construction, reconstruction, erection, or rehabilitation of a dwelling unit of the taxpayer which results in the unit being a highly energy-efficient principal residence. Such expenditures may include labor costs properly allocable to the onsite preparation, assembly, or original installation of such property.

''(2) CREDIT AMOUNT.—The credit amount with respect to a highly energy-efficient principal residence is—

''(A) $2,000 in the case of a percentage reduction of 50 percent as determined under subsection (b)(1)(C), and

''(B) $4,000 times the percentage reduction in the case of a percentage reduction of less than 50 percent as determined under subsection (b)(1)(C).

''(b) HIGHLY ENERGY-EFFICIENT PRINCIPAL RESIDENCE.—

''(1) IN GENERAL.—Property is a highly energy-efficient principal residence if—

''(A) such property is located in the United States,

''(B) the property is used as a principal residence, and

''(C) the projected heating and cooling energy usage of such property, measured in terms of average annual energy cost to taxpayer, is reduced by a percentage certified according to paragraph (3) in comparison to the energy cost of such property if expenditures made by the

taxpayer with respect to energy efficient improvements to such property were not made.

''(2) PRINCIPAL RESIDENCE.—

''(A) IN GENERAL.—The term 'principal residence' has the same meaning as when used in section 121, except that—

''(i) no ownership requirement shall be imposed, and

''(ii) the period for which a building is treated as used as a principal residence shall also include the 60-day period ending on the 1st day on which it would (but for this paragraph) first be treated as used as a principal residence.

''(B) MANUFACTURED HOUSING.—The term 'residence' shall include a dwelling unit which is a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(3) CERTIFICATION PROCEDURES.—

''(A) IN GENERAL.—For purposes of paragraph (1)(C), energy usage shall be demonstrated by performance-based compliance.

''(B) PERFORMANCE-BASED COMPLIANCE.—Performance-based compliance shall be

demonstrated if the percent energy cost savings for heating and cooling is met with respect to a dwelling unit when compared to the original condition of the dwelling unit.

''(C) COMPUTER SOFTWARE.—Computer software shall be used in support of performance-based compliance under subparagraph (B) and such software shall meet all of the procedures and methods for calculating energy savings reductions which are promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2005 California Residential Alternative Calculation Method Approval Manual.

''(D) CALCULATION REQUIREMENTS.—In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost calculation procedures based on time of usage costs for use in the performance standards of the State's building en-

ergy code before the effective date of this section, the State may use those annual energy usage and cost calculation procedures in lieu of those adopted by the Secretary.

''(E) APPROVAL OF SOFTWARE SUBMISSIONS.—The Secretary shall approve software submissions which comply with the calculation requirements of subparagraph (C).

''(F) PROCEDURES FOR INSPECTION AND TESTING OF DWELLING UNITS.—The Secretary shall ensure that procedures for the inspection and testing for compliance comply with the calculation requirements under subparagraph (C) and subsection (c)(2).

''(c) SPECIAL RULES.—For purposes of this section—

''(1) DETERMINATIONS OF COMPLIANCE.—A determination of compliance made for the purposes of this section shall be filed with the Secretary within 1 year of the date of such determination and shall include the TIN of the certifier, the address of the building in compliance, and the identity of the person for whom such determination was performed. Determinations of compliance filed with the Sec-

retary shall be available for inspection by the Secretary of Energy.

''(2) COMPLIANCE.—

''(A) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy shall establish requirements for certification and compliance procedures after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards.

''(B) INDIVIDUALS QUALIFIED TO DETERMINE COMPLIANCE.—The determination of compliance may be provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), a home inspector, or an accredited home energy rating system provider. All providers shall be accredited, or otherwise authorized to use approved energy performance measurement methods, by the Residential Energy Services Network (RESNET).

''(3) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which if jointly occupied and used during any calendar year

as a principal residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(4) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's pro-

portionate share (as defined in section 216(b)(3)) of any expenditures of such corporation and such credit shall be allocated pro rata to such individual.

''(5) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association and any credit shall be allocated appropriately.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as principal residences.

''(6) JOINT OWNERSHIP OF ENERGY ITEMS.—

''(A) IN GENERAL.—Any expenditure otherwise qualifying as an expenditure under this section shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

''(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

''(7) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

''(8) COORDINATION WITH OTHER CREDITS.—Property which would, but for this paragraph, be eligible for credit under more than one provision of this section shall be eligible only under one such provision, the provision specified by the taxpayer.

''(9) YEAR CREDIT ALLOWED.—The credit under subsection (a)(2) shall be allowed in the taxable year in which the percentage reduction with respect to the principal residence is certified.

''(10) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect

to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction of a structure, such expenditure shall be treated as made when the original use of the constructed structure by the taxpayer begins.

''(11) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

''(A) REDUCTION OF EXPENDITURES.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), for purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing.

''(ii) SUBSIDIZED ENERGY FINANCING.—For purposes of clause (i), the term 'subsidized energy financing' has the same meaning given such term in section 48(a)(4)(C).

''(B) DOLLAR LIMITS REDUCED.—The dollar amounts in the table contained in subsection

(b)(3) with respect to each property purchased for such dwelling unit for any taxable year of such taxpayer shall be reduced proportionately by an amount equal to the sum of—

"(i) the amount of the expenditures made by the taxpayer during such taxable year with respect to such dwelling unit and not taken into account by reason of subparagraph (A), and

"(ii) the amount of any Federal, State, or local grant received by the taxpayer during such taxable year which is used to make residential energy property expenditures with respect to the dwelling unit and is not included in the gross income of such taxpayer.

"(C) EXCEPTION FOR STATE PROGRAMS.—Subparagraphs (A) and (B) shall not apply to expenditures made with respect to property for which the taxpayer has received a loan, State tax credit, or grant under any State energy program.

"(d) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in

the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(e) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

''(f) TERMINATION.—This section shall not apply with respect to any energy property placed in service after December 31, 2009.''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 1016, as amended by section 601, is amended by striking ''and'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting '', and'', and by adding at the end the following new paragraph:

''(33) to the extent provided in section 25C(d), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

(B) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

''25C. Nonbusiness energy property.''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to expenditures made after December 31, 2005.

(b) TEMPORARY CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.—

(1) Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

"SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

''(b) LIMITATION.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300, reduced (but not below zero) by the sum of—

''(1) the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years, and

''(2) the credits allowed under section 25C to the taxpayer with respect to the dwelling for such taxable year and all preceding taxable years.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the latest prescriptive criteria for such component in the 2003 International Energy Conservation Code (with supplements) as in effect on the date of the enactment of this subsection, if—

''(1) such component is installed in or on a dwelling which—

''(A) is located in the United States,

''(B) has not been treated as a qualified new energy efficient home for purposes of any credit allowed under section 45J, and

''(C) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(2) the original use of such component commences with the taxpayer, and

''(3) such component reasonably can be expected to remain in use for at least 5 years.

''(e) CERTIFICATION.—

''(1) METHOD OF CERTIFICATION.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

''(2) PROVIDER.—A certification described in subsection (d) shall be provided by a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization.

''(3) FORM.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

''(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to

a condominium project substantially all of the units of which are used as residences.

''(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) any sealant or insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

''(B) exterior windows (including skylights), and

''(C) exterior doors.

''(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) TERMINATION.—Subsection (a) shall not apply to qualified energy efficiency improvements installed after December 31, 2006.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ''; and'', and by adding at the end the following new paragraph:

''(34) to the extent provided in section 25D(g), in the case of amounts with respect to which a credit has been allowed under section 25D.''.

(B) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

''25D. Energy efficiency improvements to existing homes.''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided by subparagraph (B), the amendments made by this subsection shall apply to property installed after December 31, 2005, in taxable years ending after such date.

(B) PARAGRAPH (2).—The amendments made by paragraph (2) shall apply to taxable years ending after December 31, 2005.

SEC. 503. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179B the following new section:

"SEC. 179C. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

''(a) IN GENERAL.—There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

''(b) MAXIMUM AMOUNT OF DEDUCTION.—The deduction under subsection (a) with respect to any building for the taxable year and all prior taxable years shall not exceed an amount equal to the product of—

''(1) $2.25, and

''(2) the square footage of the building.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—The term 'energy efficient commercial building property' means property—

''(A) which is installed on or in any building located in the United States,

''(B) which is installed as part of—

''(i) the interior lighting systems,

''(ii) the heating, cooling, ventilation, and hot water systems, or

''(iii) the building envelope, and

''(C) which is certified in accordance with subsection (d)(6) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1–2001 using methods of calculation under subsection (d)(2).

A building described in subparagraph (A) may include any residential rental property, including any low-rise multifamily structure or single family housing property which is not within the scope of Standard 90.1–2001, but shall not include any qualified new energy efficient home (within the meaning of section 45J(d)(3)) for which a credit under section 45J has been allowed.

''(2) STANDARD 90.1–2001.—The term 'Standard 90.1–2001' means Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engi-

neering Society of North America (as in effect on April 2, 2003).

''(d) SPECIAL RULES.—

''(1) PARTIAL ALLOWANCE.—

''(A) IN GENERAL.—Except as provided in subsection (f), if—

''(i) the requirement of subsection (c)(1)(C) is not met, but

''(ii) there is a certification in accordance with paragraph (6) that any system referred to in subsection (c)(1)(B) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system, then the requirement of subsection (c)(1)(C) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting '$.75' for '$2.25'.

''(B) REGULATIONS.—The Secretary, after consultation with the Secretary of Energy, shall

establish a target for each system described in subsection (c)(1)(B) which, if such targets were met for all such systems, the building would meet the requirements of subsection (c)(1)(C).

''(2) METHODS OF CALCULATION.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual or, in the case of residential property, the 2005 California Residential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

''(A) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost calculation procedures based on time of usage costs for use in the performance standards of the State's building energy code before the effective date of

this section, the State may use those annual energy usage and cost calculation procedures in lieu of those adopted by the Secretary.

''(B) The calculation methods under this paragraph need not comply fully with section 11 of Standard 90.1–2001.

''(C) The calculation methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this section regardless of whether the heating source is a gas or oil furnace or an electric heat pump. The reference building for a proposed design which employs electric resistance heating shall be modeled as using a heat pump.

''(D) The calculation methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either Standard 90.1–2001 or in the 2005 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

''(i) Natural ventilation.

''(ii) Evaporative cooling.

''(iii) Automatic lighting controls such as occupancy sensors, photocells, and time-clocks.

''(iv) Daylighting.

''(v) Designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating.

''(vi) Improved fan system efficiency, including reductions in static pressure.

''(vii) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

''(viii) The calculation methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance.

''(ix) On-site generation of electricity, including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy.

''(x) Wiring with lower energy losses than wiring satisfying Standard 90.1–2001

requirements for building power distribution systems.

''(3) COMPUTER SOFTWARE.—

''(A) IN GENERAL.—Any calculation under paragraph (2) shall be prepared by qualified computer software.

''(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term 'qualified computer software' means software—

''(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

''(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

''(iii) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

''(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commer-

cial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

''(5) NOTICE TO OWNER.—Each certification required under this section shall include an explanation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).

''(6) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary shall prescribe the manner and method for the making of certifications under this section.

''(B) PROCEDURES.—The Secretary shall include as part of the certification process procedures for inspection and testing by qualified individuals described in subparagraph (C) to ensure compliance of buildings with energy-savings plans and targets. Such procedures shall be comparable, given the difference between commercial and residential buildings, to the re-

quirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(C) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

''(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

''(f) INTERIM RULES FOR LIGHTING SYSTEMS.—Until such time as the Secretary issues final regulations under subsection (d)(1)(B) with respect to property which is part of a lighting system—

''(1) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1–2001.

''(2) REDUCTION IN DEDUCTION IF REDUCTION LESS THAN 40 PERCENT.—

''(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of—

''(i) 50, and

''(ii) the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

''(C) EXCEPTIONS.—This subsection shall not apply to any system—

''(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of

Standard 90.1–2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

''(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

''(g) COORDINATION WITH OTHER TAX BENEFITS.—

''(1) NO DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) with respect to any building for which a credit under section 45J has been allowed.

''(2) SPECIAL RULE WITH RESPECT TO BUILDINGS WITH ENERGY EFFICIENT PROPERTY.—In any case in which a deduction under section 200 or a credit under section 25C has been allowed with respect to property in connection with a building, the annual energy and power costs of the reference building referred to in subsection (c)(1)(C) shall be determined assuming such reference building con-

tains the property for which such deduction or credit has been allowed.

''(h) REGULATIONS.—The Secretary shall promulgate such regulations as necessary—

''(1) to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

''(2) to provide for a recapture of the deduction allowed under this section if the plan described in subsection (c)(1)(C) or (d)(1)(A) is not fully implemented.

''(i) TERMINATION.—This section shall not apply with respect to property placed in service after December 31, 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting '', and'', and by adding at the end the following new paragraph:

''(35) to the extent provided in section 179C(e).''.

(2) Section 1245(a) is amended by inserting ''179C,'' after ''179B,'' both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence ''or by section 179C''.

(4) Section 263(a)(1) of such Code is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by inserting after subparagraph (I) the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 179C.''.

(5) Section 312(k)(3)(B) is amended by striking ''section 179, 179A, or 179B'' each place it appears in the heading and text and inserting ''section 179, 179A, 179B, or 179C''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179B the following new item:

''179C. Energy efficient commercial buildings deduction.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date.

SEC. 504. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

"SEC. 25E. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the qualified Tier 1 and Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

"(A) $300 for each Tier 2 electric heat pump water heater,

"(B) $300 for each Tier 2 natural gas, oil or propane furnace or hot water boiler installed in 2006 ($250 for equipment installed in 2007, $200 for equipment installed in 2008),

"(C) $200 for each Tier 1 natural gas, oil, or propane furnace, or hot water boiler installed in 2006 ($150 for equipment installed in 2007, $100 for equipment installed in 2008),

"(D) $300 for each Tier 2 natural gas, oil, or propane water heater,

"(E) $50 for each Tier 1 natural gas, oil, or propane water heater,

"(F) $50 for a Tier 1advanced main air circulating fan which is installed in a furnace with an Annual Fuel Utilization Efficiency of less than 92 percent,

"(G) $300 for each Tier 2 combination space and water heating system,

"(H) $50 for each Tier 1combination space and water heating system,

"(I) $250 for each Tier 2 geothermal heat pump,

"(J) $300 for each Tier 2 central air conditioner or central heat pump ($200 for equipment installed in 2008), and

"(K) $200 for each Tier 1central air conditioner or central heat pump ($100 for equipment installed in 2008).

"(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless such property meets the performance and quality standards, and the certification requirements (if any), which—

"(A) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

"(B) in the case of the energy efficiency ratio (EER) for property described in subsection (d)(6)(B)(i), (J) and (K)—

"(i) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit,

"(ii) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

"(iii) are in effect at the time of the acquisition of the property.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—The term 'qualified energy efficient building property expenditure' means an expenditure for any Tier 2 or Tier 1 energy efficient building property.

''(2) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

''(A) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

''(B) a natural gas, oil, propane furnace, or hot water boiler which achieves at least 95 percent annual fuel utilization efficiency (AFUE) and which has an advanced main air circulating fan,

''(C) a natural gas, oil, or propane water heater (including a tankless water heater) which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

''(D) a combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel uti-

lization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

''(E) a geothermal heat pump which has water heating capability by a desuperheater or full-condensing option and which has an energy efficiency ratio (EER) of at least 18 for ground-loop systems, at least 21 for ground-water systems, and at least 17 for direct GeoExchange systems; and

''(F) a central air conditioner or central heat pump which meets—

''(i) the highest efficiency tier established by the Consortium for Energy Efficiency as in effect on Jan. 1, 2006; and

''(ii) for units installed after December 31, 2006, the Energy Star installation specifications that take effect in 2007, as set by the Environmental Protection Agency.

''(3) TIER 1 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 1 energy efficient building property' means—

''(A) a natural gas, oil, propane furnace, or hot water boiler which achieves at least 92 per-

cent annual fuel utilization efficiency (AFUE) and which has an advanced main air circulating fan,

"(B) a natural gas, oil, or propane water heater (including a tankless water heater) which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

"(C) an advanced main air circulating fan which has an annual electricity use of no more than 2 percent of the total annual energy use (as determined in the standard Department of Energy test procedures) and which is used in a new natural gas, propane, or oil-fired furnace,

"(D) a combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

"(E) a central air conditioner or central heat pump which meets the Energy Star specifications set by the Environmental Protection Agency as follows—

''(i) equipment specifications that take effect in 2006 (including for units installed before the specifications take effect); and

''(ii) for units installed after December 31, 2006, installation specifications that take effect in 2007.

''(4) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

''(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined

by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such indi-

vidual shall be treated as having made the individual's proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

''(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

''(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2008.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', and'', and by adding at the end the following new paragraph:

''(36) to the extent provided in section 25E(f), in the case of amounts with respect to which a credit has been allowed under section 25E.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''25E. Residential energy efficient property.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2005, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2005.

SEC. 505. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related cred-

its) is amended by adding at the end the following new section:

"SEC. 45K. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) GENERAL RULE.—

"(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for any taxable year is an amount equal to the sum of the credit amounts determined under paragraph (2) for each type of qualified energy efficient appliance produced by the taxpayer during the calendar year ending with or within the taxable year.

"(2) CREDIT AMOUNTS.—The credit amount determined for any type of qualified energy efficient appliance is—

"(A) the applicable amount determined under subsection (b) with respect to such type, multiplied by

"(B) the eligible production for such type.

"(b) APPLICABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)—

"(A) DISHWASHERS.—The applicable amount is the energy savings amount in the case of a dishwasher which—

''(i) is manufactured in calendar year 2006 or 2007, and

''(ii) meets the requirements of the Energy Star program which are in effect for dishwashers in 2007.

''(B) CLOTHES WASHERS.—The applicable amount is—

''(i) $50, in the case of a clothes washer which—

''(I) is manufactured in calendar year 2005, and

''(II) has an MEF of at least 1.42,

''(ii) $100, in the case of a clothes washer which—

''(I) is manufactured in calendar year 2005, 2006, or 2007, and

''(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2007, and

''(iii) the energy and water savings amount, in the case of a clothes washer which—

''(I) is manufactured in calendar year 2008, 2009, or 2010, and

''(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2010.

''(C) REFRIGERATORS.—

''(i) 15 PERCENT SAVINGS.—The applicable amount is $75 in the case of a refrigerator which—

''(I) is manufactured in calendar year 2005 or 2006, and

''(II) consumes at least 15 percent but not more than 20 percent less kilowatt hours per year than the 2001 energy conservation standard.

''(ii) 20 PERCENT SAVINGS.—In the case of a refrigerator which consumes at least 20 percent but not more than 25 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

''(I) $125 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

"(II) $100 for a refrigerator which is manufactured in calendar year 2008.

"(iii) 25 PERCENT SAVINGS.—In the case of a refrigerator which consumes at least 25 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

"(I) $175 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

"(II) $150 for a refrigerator which is manufactured in calendar year 2008, 2009, or 2010.

"(2) ENERGY SAVINGS AMOUNT.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The energy savings amount is the lesser of—

"(i) the product of—

"(I) $3, and

"(II) 100 multiplied by the energy savings percentage, or

"(ii) $100.

"(B) ENERGY SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy savings percentage is the ratio of—

"(i) the EF required by the Energy Star program for dishwashers in 2007 minus the EF required by the Energy Star program for dishwashers in 2005, to

"(ii) the EF required by the Energy Star program for dishwashers in 2007.

"(3) ENERGY AND WATER SAVINGS AMOUNT.—For purposes of paragraph (1)(B)(iii)—

"(A) IN GENERAL.—The energy and water savings amount is the lesser of—

"(i) the product of—

"(I) $10, and

"(II) 100 multiplied by the energy and water savings percentage, or

"(ii) $200.

"(B) ENERGY AND WATER SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy and water savings percentage is the average of the MEF savings percentage and the WF savings percentage.

"(C) MEF SAVINGS PERCENTAGE.—For purposes of this paragraph, the MEF savings percentage is the ratio of—

"(i) the MEF required by the Energy Star program for clothes washers in 2010 minus the MEF required by the Energy Star program for clothes washers in 2007, to

"(ii) the MEF required by the Energy Star program for clothes washers in 2010.

"(D) WF SAVINGS PERCENTAGE.—For purposes of this paragraph, the WF savings percentage is the ratio of—

"(i) the WF required by the Energy Star program for clothes washers in 2007 minus the WF required by the Energy Star program for clothes washers in 2010, to

"(ii) the WF required by the Energy Star program for clothes washers in 2007.

"(c) ELIGIBLE PRODUCTION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of—

"(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

"(B) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

"(2) SPECIAL RULE FOR REFRIGERATORS.—The eligible production in a calendar year with respect to each type of refrigerator described in subsection (b)(1)(C) is the excess of—

"(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

"(B) 110 percent of the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

"(3) SPECIAL RULE FOR 2005 PRODUCTION.—For purposes of determining eligible production for calendar year 2005—

"(A) only production after the date of enactment of this section shall be taken into account under paragraphs (1)(A) and (2)(A), and

"(B) the amount taken into account under paragraphs (1)(B) and (2)(B) shall be an amount which bears the same ratio to the amount which would (but for this paragraph) be taken into account under such paragraph as—

"(i) the number of days in calendar year 2005 after the date of enactment of this section, bears to

"(ii) 365.

"(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

"(1) dishwashers described in subsection (b)(1)(A),

"(2) clothes washers described in subsection (b)(1)(B)(i),

"(3) clothes washers described in subsection (b)(1)(B)(ii),

"(4) clothes washers described in subsection (b)(1)(B)(iii),

"(5) refrigerators described in subsection (b)(1)(C)(i),

"(6) refrigerators described in subsection (b)(1)(C)(ii)(I),

''(7) refrigerators described in subsection (b)(1)(C)(ii)(II),

''(8) refrigerators described in subsection (b)(1)(C)(iii)(I), and

''(9) refrigerators described in subsection (b)(1)(C)(iii)(II).

''(e) LIMITATIONS.—

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

''(2) AMOUNT ALLOWED FOR CERTAIN APPLIANCES.—

''(A) IN GENERAL.—In the case of appliances described in subparagraph (C), the aggregate amount of the credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $20,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances.

"(B) ELECTION TO INCREASE ALLOWABLE CREDIT.—In the case of any taxpayer who makes an election under this subparagraph—

"(i) subparagraph (A) shall be applied by substituting '$25,000,000' for '$20,000,000', and

"(ii) the aggregate amount of the credit allowed under subsection (a) with respect to such taxpayer for any taxable year for appliances described in subparagraph (C) and the additional appliances described in subparagraph (D) shall not exceed $50,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances.

"(C) APPLIANCES DESCRIBED.—The appliances described in this subparagraph are—

"(i) clothes washers described in subsection (b)(1)(B)(i), and

"(ii) refrigerators described in subsection (b)(1)(C)(i).

"(D) ADDITIONAL APPLIANCES.—The additional appliances described in this subparagraph are—

"(i) refrigerators described in subsection (b)(1)(C)(ii)(I), and

"(ii) refrigerators described in subsection (b)(1)(C)(ii)(II).

"(3) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(4) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(f) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

"(A) any dishwasher described in subsection (b)(1)(A),

"(B) any clothes washer described in subsection (b)(1)(B), and

"(C) any refrigerator described in subsection (b)(1)(C).

"(2) DISHWASHER.—The term 'dishwasher' means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

"(3) CLOTHES WASHER.—The term 'clothes washer' means a residential model clothes washer, including a residential style coin operated washer.

"(4) REFRIGERATOR.—The term 'refrigerator' means a residential model automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

"(5) MEF.—The term 'MEF' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

"(6) EF.—The term 'EF' means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

"(7) WF.—The term 'WF' means Water Factor (as determined by the Secretary of Energy).

"(8) PRODUCED.—The term 'produced' includes manufactured.

''(9) 2001 ENERGY CONSERVATION STANDARD.—The term '2001 energy conservation standard' means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

''(g) SPECIAL RULES.—For purposes of this section—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

''(2) CONTROLLED GROUP.—

''(A) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

''(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

''(3) VERIFICATION.—No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consulta-

tion with the Secretary of Energy, determines necessary.''.

(b) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting '', plus'', and by adding at the end the following new paragraph:

''(21) the energy efficient appliance credit determined under section 45K(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''45K. Energy efficient appliance credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 506. INCENTIVE FOR CERTAIN ENERGY EFFICIENT PROPERTY USED IN BUSINESS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

''SEC. 200. ENERGY PROPERTY DEDUCTION.

''(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the sum of—

''(1) the amount determined under subsection (b) for each energy property of the taxpayer placed in service during such taxable year, and

''(2) the energy efficient residential rental building property deduction determined under subsection (d).

''(b) AMOUNT FOR ENERGY PROPERTY.—

''(1) IN GENERAL.—The amount determined under this subsection for the taxable year for each item of energy property is—

''(A) $900 for each Tier 2 electric heat pump water heater,

''(B) $900 for each Tier 2 natural gas, oil or propane furnace or hot water boiler installed in 2006 ($750 for equipment installed in 2007, $600 for equipment installed in 2008),

''(C) $600 for each Tier 1 natural gas, oil, or propane furnace, or hot water boiler installed in 2006 ($450 for equipment installed in 2007, $300 for equipment installed in 2008),

''(D) $900 for each Tier 2 natural gas, oil, or propane water heater,

''(E) $150 for each Tier 1 natural gas, oil, or propane water heater,

"(F) $150 for a Tier 1advanced main air circulating fan which is installed in a furnace with an Annual Fuel Utilization Efficiency of less than 92 percent,

"(G) $900 for each Tier 2 combination space and water heating system,

"(H) $150 for each Tier 1combination space and water heating system,

"(I) $750 for each Tier 2 geothermal heat pump,

"(J) $900 for each Tier 2 central air conditioner or central heat pump ($600 for equipment installed in 2008), and

"(K) $600 for each Tier 1central air conditioner or central heat pump ($300 for equipment installed in 2008).

"(2) SAFETY CERTIFICATIONS.—A rule similar to the rule of section 25E(b)(2) shall apply for purposes of this section.

"(c) ENERGY PROPERTY DEFINED.—For purposes of this part, the term 'energy property' means any property—

"(1) which is energy efficient building property (as defined in section 25E(d),

''(2)(A) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(B) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

''(3) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(d) ENERGY EFFICIENT RESIDENTIAL RENTAL BUILDING PROPERTY DEDUCTION.—

''(1) DEDUCTION ALLOWED.—For purposes of subsection (a)—

''(A) IN GENERAL.—The energy efficient residential rental building property deduction determined under this subsection is an amount equal to energy efficient residential rental building property expenditures made by a taxpayer for the taxable year.

''(B) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient residential rental building property expenditures taken into account under subparagraph (A) with respect to each dwelling unit shall not exceed—

''(i) $6,000 in the case of a percentage reduction of 50 percent as determined under paragraph (2)(B), and

"(ii) $12,000 times the percentage reduction in the case of a percentage reduction of less than 50 percent as determined under paragraph (2)(B).

"(C) YEAR DEDUCTION ALLOWED.—The deduction under subparagraph (A) shall be allowed in the taxable year in which the construction, reconstruction, erection, or rehabilitation of the property is completed.

"(2) ENERGY EFFICIENT RESIDENTIAL RENTAL BUILDING PROPERTY EXPENDITURES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'energy efficient residential rental building property expenditures' means an amount paid or incurred in connection with construction, reconstruction, erection, or rehabilitation of energy efficient residential rental building property—

"(i) for which depreciation is allowable under section 167,

"(ii) which is located in the United States, and

"(iii) the construction, reconstruction, erection, or rehabilitation of which is completed by the taxpayer.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(B) ENERGY EFFICIENT RESIDENTIAL RENTAL BUILDING PROPERTY.—

''(i) IN GENERAL.—The term 'energy efficient residential rental building property' means any property which reduces total annual energy and power costs with respect to heating and cooling of the building by a percentage certified according to clause (ii).

''(ii) PROCEDURES.—

''(I) IN GENERAL.—For purposes of clause (i), energy usage and costs shall be demonstrated by performance-based compliance.

''(II) PERFORMANCE-BASED COMPLIANCE.—Performance-based compliance shall be demonstrated by calculating the percent energy cost savings for heating and cooling, as applicable, with respect to a dwelling unit when compared to the original condition of the dwelling unit.

"(III) COMPUTER SOFTWARE.—Computer software shall be used in support of performance-based compliance under subclause (II) and such software shall meet all of the procedures and methods for calculating energy savings reductions which are promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2005 California Residential Alternative Calculation Method Approval Manual.

"(IV) CALCULATION REQUIREMENTS.—In calculating tradeoffs and energy performance, the regulations prescribed under this clause shall prescribe for the taxable year the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. Where a State has developed annual energy usage and cost reduction procedures based on time of

usage costs for use in the performance standards of the State's building energy code prior to the effective date of this section, the State may use those annual energy usage and cost reduction procedures in lieu of those adopted by the Secretary.

''(V) APPROVAL OF SOFTWARE SUBMISSIONS.—The Secretary shall approve software submissions which comply with the requirements of subclause (III).

''(VI) PROCEDURES FOR INSPECTION AND TESTING OF HOMES.—The Secretary shall ensure that procedures for the inspection and testing for compliance comply with the calculation requirements under subclause (IV) of this clause and clause (iv).

''(iii) DETERMINATIONS OF COMPLIANCE.—A determination of compliance with respect to energy efficient residential rental building property made for the purposes of this subparagraph shall be filed with the Secretary not later than 1 year

after the date of such determination and shall include the TIN of the certifier, the address of the building in compliance, and the identity of the person for whom such determination was performed. Determinations of compliance filed with the Secretary shall be available for inspection by the Secretary of Energy.

''(iv) COMPLIANCE.—

''(I) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy, shall establish requirements for certification and compliance procedures after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards.

''(II) INDIVIDUALS QUALIFIED TO DETERMINE COMPLIANCE.—The determination of compliance may be provided by a local building regulatory authority, a utility, a manufactured home production inspection primary

inspection agency (IPIA), a home inspector, or an accredited home energy rating system provider. All providers shall be accredited, or otherwise authorized to use approved energy performance measurement methods, by the Residential Energy Services Network (RESNET).

''(C) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient residential rental building property which is public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the improvements to the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any property, the basis of such property shall be reduced by the amount of the deduction so allowed.

''(2) DOUBLE BENEFIT.—Property which would, but for this paragraph, be eligible for deduction under more than one provision of this section shall be eligible only under one such provision, the provision specified by the taxpayer.

''(f) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

''(g) TERMINATION.—This section shall not apply with respect to—

''(1) any energy property placed in service after December 31, 2008, and

''(2) any energy efficient residential rental building property expenditures in connection with property—

''(A) placed in service after December 31, 2009, or

''(B) the construction, reconstruction, erection, or rehabilitation of which is not completed on or before December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 48(a)(3)(A) is amended to read as follows:

''(A) which is equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage,''.

(2) Subparagraph (B) of section 168(e)(3) is amended—

(A) in clause (vi)(I)—

(i) by striking ''section 48(a)(3)'' and inserting ''section 200(d)(1)'', and

(ii) by striking ''clause (i)'' and inserting ''such subparagraph (A)'', and

(B) in the last sentence, by striking ''section 48(a)(3)'' and inserting ''section 200(c)(3)''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', and'', and by inserting the following new paragraph:

''(37) for amounts allowed as a deduction under section 200(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

''200. Energy property deduction.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Energy out of amounts not already appropriated such sums as necessary to carry out this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 507. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS.

(a) IN GENERAL.—Section 48(a)(3)(A) of the Internal Revenue Code of 1986 (defining energy property), as amended by section 301, is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) qualified fuel cell property,''.

(b) QUALIFIED FUEL CELL PROPERTY.—Section 48 of such Code (relating to energy credit) is amended by adding at the end the following new subsection:

''(c) QUALIFIED FUEL CELL PROPERTY.—For purposes of subsection (a)(3)(A)(iii)—

''(1) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which generates at least 0.5 kilowatt of electricity using an electrochemical process.

''(2) LIMITATION.—The energy credit with respect to any qualified fuel cell property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

''(3) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system, comprised of a fuel cell stack assembly and associated balance of plant components, which converts a fuel into electricity using electrochemical means.

''(4) TERMINATION.—The term 'qualified fuel cell property' shall not include any property placed in service after December 31, 2009.''.

(c) ENERGY PERCENTAGE.—Subparagraph (A) of section 48(a)(2) of such Code (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENT.—Section 48(a)(1) of such Code is amended by inserting ''except as provided in subsection (c)(2),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2005, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 508. CREDIT FOR NONBUSINESS INSTALLATION OF QUALIFIED FUEL CELLS [NEW ADDITION NOT UPDATED].

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25F. NONBUSINESS INSTALLATION OF QUALIFIED FUEL CELLS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed $500 for each 0.5 kilowatt of capacity of qualified fuel cell property.

''(2) PROPERTY STANDARDS.—No credit shall be allowed under this section for an item of property unless—

''(A) the original use of such property commences with the taxpayer,

''(B) such property reasonably can be expected to remain in use for at least 5 years,

''(C) such property is installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer,

''(D) such property meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

''(E) such property meets appropriate fire and electric code requirements.

''(c) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—For purposes of this section, the term 'qualified

fuel cell property expenditure' means an expenditure for any qualified fuel cell property (as defined in section 48(c)(1)).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals, the following rules shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to

the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made the individual's tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to

a condominium project substantially all of the units of which are used as residences.

''(4) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

''(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with

respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)).

''(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) TERMINATION.—The credit allowed under this section shall not apply to taxable years beginning after December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 25F(e), in the case of amounts with respect to which a credit has been allowed under section 25F.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is

amended by adding at the end the following new item:

''Sec. 25F. Nonbusiness installation of qualified fuel cells.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2005.

SEC. 509. NEW NONREFUNDABLE PERSONAL CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—

(1) SECTION 25c.—Section 25C(c), as added by this Act, is amended by adding at the end the following new paragraph:

''(12) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(2) SECTION 25d.—Section 25D(f), as added by this Act, is amended by adding at the end the following new paragraph:

''(6) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(3) SECTION 25e.—Section 25E(e), as added by this Act, is amended by adding at the end the following new paragraph:

''(7) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(4) SECTION 25f.—Section 25F(b), as added by this Act, is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 23(b)(4)(B) is amended by inserting ''and sections 25C, 25D, 25E, and 25F'' after ''this section''.

(2) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, 25C, 25D, 25E, and 25F''.

(3) Section 25(e)(1)(C) is amended by inserting ''25C, 25D, 25E, and 25F'' after ''25B,''.

(4) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23, 25C, 25D, 25E, and 25F''.

(5) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, 25C, 25D, 25E, and 25F''.

(6) Section 904(i) is amended by striking ''and 25B'' and inserting ''25B, 25C, 25D, 25E, and 25F''.

(7) Section 1400C(d) is amended by striking ''and 25B'' and inserting ''25B, 25C, 25D, 25E, and 25F''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 510. CERTAIN BUSINESS ENERGY CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by redesignating clause (ii) as clause (iv) and by striking clause (i) and inserting the following new clauses:

''(i) the credits determined under sections 40, 45H, 45I, 45J, and 45K,

''(ii) so much of the credit determined under section 46 as is attributable to section 48(a)(3)(A)(iii),

''(iii) for taxable years beginning after December 31, 2005, and before January 1, 2008, the credit determined under section 43, and''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendment made by subsection (a) shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years beginning after December 31, 2005.

(2) FUEL CELLS.—Clause (ii) of section 38(c)(4)(B) of the Internal Revenue Code of 1986, as amended by subsection (a) of this section, shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years ending after April 11, 2005.

Subtitle B—Transportation Incentives

SEC. 511. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b), and

''(2) the new qualified hybrid motor vehicle credit determined under subsection (c).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

''(A) $8,000 ($4,000 in the case of vehicles placed in service after December 31, 2009), if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

''(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is

a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 per-

cent of the 2002 model year city fuel economy, and

''(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

''(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

''If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

''(ii) In the case of a light truck:

''If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg

"If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

"(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

"(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

"(B) which, in the case of a passenger automobile or light truck, has received a certificate that such vehicle meets or exceeds the Bin

5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

''(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehi-

cle, or light truck and which provides the following percentage of the maximum available power:

"If percentage of the maximum available power is:	The credit amount is:
At least 5 percent but less than 10 percent	$250
At least 10 percent but less than 20 percent	$500
At least 20 percent but less than 30 percent	$750
At least 30 percent	$1,000.

''(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

''(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	$1,000
At least 30 percent but less than 40 percent	$1,750
At least 40 percent but less than 50 percent	$2,000
At least 50 percent but less than 60 percent	$2,250
At least 60 percent	$2,500.

''(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	$4,000
At least 30 percent but less than 40 percent	$4,500
At least 40 percent but less than 50 percent	$5,000
At least 50 percent but less than 60 percent	$5,500
At least 60 percent	$6,000.

"(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	$6,000
At least 30 percent but less than 40 percent	$7,000
At least 40 percent but less than 50 percent	$8,000
At least 50 percent but less than 60 percent	$9,000
At least 60 percent	$10,000.

"(B) INCREASE FOR FUEL EFFICIENCY.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

"(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

"(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

"(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

"(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

"(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit

amount determined in accordance with the following tables:

"(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

"If the model year is:	The increased credit amount is:
2005	$2,000
2006	$1,500.

"(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2005	$5,250
2006	$4,000.

"(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2005	$8,000
2006	$6,000.

"(D) DEFINITIONS RELATING TO CREDIT AMOUNT.—

"(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat

engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

''(ii) MAXIMUM AVAILABLE POWER.—

''(I) PASSENGER AUTOMOBILE, MEDIUM DUTY PASSENGER VEHICLE, OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

''(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system,

during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

"(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified hybrid motor vehicle' means a motor vehicle—

"(A) which draws propulsion energy from onboard sources of stored energy which are both—

"(i) an internal combustion or heat engine using combustible fuel, and

"(ii) a rechargeable energy storage system,

"(B) which, in the case of a passenger automobile, medium duty passenger vehicle, or

light truck, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) which, in the case of a heavy duty hybrid motor vehicle, the internal combustion or heat engine of which has received a certificate of conformity under the Clean Air Act as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy duty engines or ottocycle heavy duty engines, as applicable,

''(D) the original use of which commences with the taxpayer,

''(E) which is acquired for use or lease by the taxpayer and not for resale, and

''(F) which is made by a manufacturer.

''(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'heavy duty hybrid motor vehicle' means a new qualified hy-

brid motor vehicle which has a gross vehicle weight rating of more than 8,500 pounds. Such term does not include a medium duty passenger vehicle.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(3) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of

chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

''(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'medium duty passenger vehicle', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

''(6) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

''(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

"(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(9) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be

allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(11) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this section, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(f) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle

meets the requirements to be eligible for a credit under this section.

''(g) TERMINATION.—This section shall not apply to any property purchased after—

''(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2014, and

''(2) in the case of any other property, December 31, 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting '', and'', and by adding at the end the following new paragraph:

''(39) to the extent provided in section 30B(e)(5).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3)''.

(3) Section 6501(m) is amended by inserting ''30B(e)(10),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''30B. Alternative motor vehicle credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Industry Incentives

SEC. 521. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this Act, is amended to read as follows:

''(A) which is—

''(i) equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage, or

''(ii) combined heat and power system property,''.

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 (relating to energy credit) is amended by redesignating subsection (b) as paragraph (5) of subsection (a), by moving such paragraph (5) two ems to the

right, and by adding at the end the following new subsection:

''(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(ii)—

''(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(B) which has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of not more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,

''(C) which produces—

''(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

''(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(D) the energy efficiency percentage of which exceeds 60 percent, and

''(E) which is placed in service before January 1, 2009.

''(2) SPECIAL RULES.—

''(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

''(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(ii) the denominator of which is the lower heating value of the fuel sources for the system.

''(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(C) shall be determined on a Btu basis.

''(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(D) PUBLIC UTILITY PROPERTY.—

''(i) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under subsection (a) if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(ii) CERTAIN EXCEPTION NOT TO APPLY.—The matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to combined heat and power system property.

''(E) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure

steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or kalina heat engine systems, paragraph (1) shall be applied without regard to subparagraphs (A), (C), and (D) thereof.''

''(3) SYSTEMS USING BAGASSE.—If a system is designed to use bagasse for at least 90 percent of the energy source—

''(A) paragraph (1)(D) shall not apply, but

''(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.''.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date

of the enactment of the Revenue Reconciliation Act of 1990).

○